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# Slavery and the Slave Trades in the Indian Ocean and Arab Worlds: Global Connections and Disconnections

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## *Straight, No Chaser: Slavery, Abolition, and the Modern Muslim Mind*

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### **Introduction**

It might strike the reader as odd and perhaps somewhat irreverent that I should use an allusion to the drinking of alcohol in the title of a paper concerned with the modern Muslim mind.<sup>1</sup> That is not my intention, for the title is actually drawn from the world of jazz. When the allusion is viewed in that sense, it has direct relevance to my topic. My title is borrowed from the famous jazz piece written and often performed by Thelonious Monk, the iconic jazz composer and pianist who brought great influence to the music, beginning in the early 1940's and continuing until his death in 1982. Monk's piece, simply entitled "Straight, No Chaser," and

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<sup>1</sup> The drinking of alcohol for pleasure is forbidden to Muslims. For the uninitiated, "Straight, No Chaser" describes a fairly widely heard request of the typical alcohol-drinking tavern customer who, in ordering a drink, tells the bartender that he desires a glass of gin or vodka or whiskey undiluted by a non-alcoholic mixer ('straight') and without the customary glass of beer or water or soda that follows the downing of the straight alcohol, allegedly softening its impact (no 'chaser').

the sub-genre it represents, has come to be a metaphor for the introduction of “modern” jazz idioms into the traditional jazz and blues forms that were dominant and popular in the pre-war years and through the mid to late 1940’s.<sup>2</sup>

Using eloquent and economical phrasing combined with unusual rhythmic devices, long silences, angular and arresting melodies, and a dissonant chord structure that became his quintessential signature, Monk forced many jazz musicians and composers to confront their short-comings and the short-comings and limitations of the music as it then existed. He used a spare and precise realism to examine where the music was going and to suggest a sharp break with the past, sometimes even using melody and chord structure to mock the traditional forms of standard jazz. Monk’s pieces took no prisoners; they made no sacrifices to the sentimentalism, romanticism, self-delusion, complacency, or slavish devotion to the traditional forms found in the work of his contemporaries. His music looked the listener straight in the eye and forced self-reflection and, indeed, sometimes self-confrontation. Although “Straight, No Chaser” carried the jazz form to places it had never been before, it also accepted its lot in the life and history of the music without any dilution or disguise. By turning the traditional jazz form upside down, inside out, or sideways, Monk exposed “the unvarnished truth” of the past forms and advanced the listener’s understanding of the form, lighting the way to the future.<sup>3</sup> This is

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<sup>2</sup> The literature on Monk’s influence in the creation of “modern” jazz is extensive. See, e.g., Gabriel Solis, *Monk’s Music: Thelonious Monk and Jazz History in the Making* (Berkeley: University of California Press, 2008); Sigi Fashingbauer, *Thelonious Monk’s Walk* (Klagenfurt, Austria: Wieser, 2007); Amiri Baraka, *Book of Monk* (Candia, N.H.: John LeBow, 2005); Leslie Grouse, *Straight, No Chaser: The Life and Genius of Thelonious Monk* (New York: Schirmer Books, 1997); Thomas Fitterling, *Thelonious Monk: His Life and Music*, trans. Robert Dobbin, rev.ed. (Berkeley: Berkeley Hills Books, 1997); Laurent de Wilde, *Monk*, trans. Jonathan Dickinson (New York: Marlowe, 1997). There are also several film treatments of his life and work, including a well-regarded documentary account produced by Clint Eastwood and directed by Charlotte Zwerin, also entitled “Straight, No Chaser.” *Thelonious Monk, Straight No Chaser*, directed by Charlotte Zwerin (Warner Home Video, 2001).

<sup>3</sup> First recorded on July 23, 1951, “Straight, No Chaser” has been described as “simultaneously terse and complex,” obtaining “such variation and intensity from such a simple and short idea” that was “unheard of” at the time. The

what I want to do here in my discussion of the history and historiography of slavery and abolition in the Muslim world and their relationship to contemporary Islamic thought.

### **An Impoverished Sense of History**

I begin by noting that, in spite of the rich and rapidly developing historiography in the Western academies on slavery and abolition in the Muslim world, discussion and understanding among Muslims of that history remains deeply impoverished and shockingly uninformed.<sup>4</sup>

There is effectively no real knowledge of the modern history of slavery or its abolition, especially in the realms of popular knowledge and in the content of educational curricula in secondary schools and universities, particularly in the Arab world. The modern Muslim mind is essentially in denial when it is asked to reflect on the Muslim world's long and deep connections with slavery and slave-trading systems.<sup>5</sup> Many Muslims do possess a kind of

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recording was one of the few times in Monk's early career that he actually played in the blues form, while imparting "an astringency worlds away from early manifestations of jazz and blues music." Brian Priestly, "Monk, Thelonious Sphere," *International Dictionary of Black Composers* (Chicago, London: Fitzroy Dearborn Publishers, 1999), 2:832-39.

<sup>4</sup> When I use the term "Muslim world," I mean to describe those communities where a majority or significant minority of the populace professes the Islamic faith. This would include modern day Turkey and its dependencies, North Africa, including Egypt and the Sudan, the coast of East Africa from Ethiopia to Mozambique, the Sahelian nations, West Africa from Mali south to southern Nigeria, Lebanon, Syria, Jordan, Iraq, Iran, Afghanistan, and the former southern republics of the Soviet Union, Pakistan and large areas of India, Bangladesh, Indonesia, Malaysia, and a number of smaller island communities in the Indian Ocean, including Zanzibar, the Comoros Islands, the Maldives, as well as the southern reaches of the Philippines.

<sup>5</sup> When I use the term "modern Muslim mind" I intend to describe a way of thinking that is fairly commonly encountered among reasonably well educated economically comfortable Muslims living in the East and the West. Such persons are religious and often seek to be more pious and observant of the faith, but they are not prone to extremism or radical interpretations of religious texts and doctrines. They readily accept governance by secular governments but they insist on maintaining their freedom to worship if such can be achieved without violence or other major disruptive behaviors. They are aware of the well known economic and political problems affecting the Muslim world and they earnestly seek solutions. A good example of the attitude of the "modern Muslim mind" on the question of the relation between Islam and slavery can be found at Shehzad Saleem, "The Condemnation of Slavery by Islam" <http://www.islamicity.com/articles/Articles.asp?ref=RI9503-2>. Ms. Saleem, an obviously knowledgeable Muslim on matters of religion, takes the indefensible position that the Islamic texts explicitly condemn slavery.

superficial, idealized and normatively instrumental knowledge supplied by certain aspects of their religious history but this knowledge simply will not support the kind of critical analysis required if Muslims are to truly understand and benefit from their history.

Perhaps the best example of this kind of normatively instrumental history of slavery is the tradition surrounding the emancipation of Bilal ibn Rabah. Every Muslim school child knows the story of Bilal. An Ethiopian slave living in Mecca during the early days of the Prophet Muhammad's mission and struggle with the Meccan polytheists, Bilal found himself tortured by his master, lying in the desert in the midday sun and enduring hot rocks and physical cruelty for days on end, because he refused to utter allegiance to the Meccan pagan gods and instead continually professed submission to "*Allahu-ahad*," "God the one."<sup>6</sup> According to the tradition, Bilal continued to persist in his refusal and Umayyah ibn Khalaf, his owner, shouted at him: "What bad luck has thrown you upon us, O slave of evil? By al-Lat and al-'Uzza (the Meccan gods), I will make you an example for slaves and masters."<sup>7</sup> With that announcement he began to prepare to kill Bilal.<sup>8</sup> Abu Bakr, a wealthy close companion of the Prophet and one of the first Muslims, interceded, purchasing Bilal from Umayyah and instantaneously freeing him.<sup>9</sup> Bilal rapidly became a faithful adherent of the new religion. The band of new Muslims around the Prophet soon had to flee Mecca for Medina to avoid persecution and death, and Bilal traveled to Medina with them. In Medina the Prophet established a new government and regular open worship, as he was instructed to do by the Qur'anic revelations. When the question arose as to

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<sup>6</sup> This account is drawn from Khalid Muhammad Khalid, *Men around the Messenger*, ed. Aelfwine Acelas Mischler, trans. Sheik Muhammad Musafa Gemeiah (Cairo: Al-Azhar Al-Sharif Islamic Research Academy, 1997).

<sup>7</sup> *Ibid.*, 70.

<sup>8</sup> *Ibid.*, 65, 68-69.

<sup>9</sup> *Ibid.*

how to call the other faithful to public prayer, Bilal ascended to the roof of the Prophet's new mosque in Medina and devised a formula for a summons to prayer that would employ the human voice, rather than a drum or a horn or a bell. With this act he became the first *muezzin* (prayer-caller) in Islam. The call was indeed recognized as important for communal public worship in a subsequently revealed verse of the Qur'an.<sup>10</sup> The cadence and beautifully melodic sound of the Muslim call to prayer, now heard all over the world, is ascribed by all Muslims to Bilal's example of faith and service.<sup>11</sup>

Parents, religious teachers, political leaders, and even many academics cite the example of the emancipation of Bilal and as a kind of proof-text of Islam's emancipatory ethic with regard to slavery and its intolerance of racial discrimination.<sup>12</sup> Indeed, the example and others like it do in fact show that the experience of the early Muslims—an experience that forms the revelational context for the Qur'an—was fundamentally an emancipatory one.<sup>13</sup> This

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<sup>10</sup> *The Holy Qur'an* 62:9. All citations to the Qur'an and quotations of passages therein are drawn from 'Abdullah Yusuf Ali, trans., *The Meaning of The Holy Qur'an*. 11th ed. (Beltsville, Md.: Amana Publications, 2006) unless otherwise noted.

<sup>11</sup> Khalid, *Men around the Messenger* 71.

<sup>12</sup> For example, in 1975 the Nation of Islam changed the name of its national newspaper from *Muhammad Speaks* to *The Bilalian News* in an effort to appeal to African Americans, most of whom were descendants of former slaves. Mohammad Hashim Kamali, professor of law at the International Islamic University in Malaysia and the author of a number of widely used texts on Islamic law, cites the Prophet Muhammad's appointment of Bilal as interim governor of Medina as proof of Islam's prohibition of racial discrimination in employment and its commitment to racial equality. For more information, see Mohammad Hashim Kamali, *Freedom, Equality, and Justice in Islam* (Cambridge, U.K.: Islamic Texts Society, 2002), 58.

<sup>13</sup> Another prominent example involves the emancipation and conversion of Zayd ibn al-Harithah, the dark skinned Arab slave of the Prophet's wife Khadija. She presented him as a gift to the Prophet after they were married and the Prophet immediately emancipated him. After his emancipation, Zayd chose to remain in the Prophet's household as his "adopted" son, changing his name to Zayd ibn Muhammad. Sometime later the Prophet received the first revelations of the Qur'an and Zayd is said to be among the first Muslims, accepting the new religion almost simultaneously with the conversions of Khadija, Ali ibn Abi Talib (the Prophet's cousin), and Abu Bakr. The Qur'an forbade adoption and Zayd's original name and lineage were restored. Abu Bakr made a practice of using his wealth to free a number of Meccan slaves in the name of Islam. The emancipation of Amr ibn Fuhayrah is another oft-cited example. See D.S. Margoliouth, *Mohammed and the Rise of Islam* (New York: Putnam, 1905), 94-99; Maxime Rodinson, *Mohammed*, trans. Anne Carter (New York: Pantheon Books, 1971), 51-2; 99-101.

emancipatory experience is an important backdrop to the Quranic discussions of human equality. The Prophet Muhammad privileged those among his companions who were former slaves in the same way that he privileged his other free-born companions. This behavior provoked the ire of Meccan dignitaries. Muhammad's concern about this ire drew a mild rebuke of him in the Qur'an.<sup>14</sup>

The Qur'anic rebuke is widely interpreted as calling upon Muhammad to reject distinctions among human beings on the basis of lineage, nationality, servile heritage, or socioeconomic status.<sup>15</sup> He is explicitly warned that to do so would be unjust and the text suggests that the only distinctions recognized as appropriate are those premised on the basis of belief and piety.<sup>16</sup> There are numerous other examples of similar religious norms that command or exhort Muslims to adopt an emancipatory ethic with regard to slavery. Some are Qur'anic, like the example cited above,<sup>17</sup> and others are drawn from the *hadith* literature and other historical traditions concerned with the decision-making of the Rightly Guided Caliphs

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<sup>14</sup> Seventh century Meccan society was driven by class consciousness and discrimination and, according to the traditions, the dignitaries refused to meet with the Prophet because he surrounded himself with former slaves from Ethiopia, Persia, and Byzantium. The following verse of the Qur'an was then revealed:

"Send not away those who call on their Lord morning and evening, seeking His Face. In naught art thou accountable for them, and in naught are they accountable for thee, that thou shouldst turn them away, and thus be (One) of the unjust." *Holy Qur'an*, 6:52.

<sup>15</sup> Muhammed Asad, trans. *The Message of the Qur'an*, (Gibraltar: Dar Al-Andalus, 1984), 179, n. 41.

<sup>16</sup> Kamali, *Freedom, Justice and Equality in Islam* 54. Verse 6:52 is one of a number of verses in the Qur'an where the text strongly urges the believers to adopt an attitude evincing *taqwa*, which can be translated as "God-consciousness" or "piety," in their dealings with other human beings, particularly those who are in subordinate or vulnerable positions, such as slaves, orphans, widows, the poor and the disabled. The most important verse exhorting *taqwa* is 49:13, cited by the Prophet in his farewell sermon wherein he urges racial equality among the believers and repeatedly cited by religious scholars as evidence of the Qur'an's universalist condemnation of racial discrimination.

<sup>17</sup> The best example is *Surat ul-Balad*, chapter 90 of the Holy Qur'an, which urges Muhammad and all those who emulate him to care for their kin, rescue the indigent, and free slaves. See *The Holy Qur'an*, 90:1-20.

and the early Shi'a Imams on the issue of slavery.<sup>18</sup> These norms are frequently cited by prominent clerics and jurists as normative and ideological support for a perceived Islamic jurisprudential goal of the elimination of slavery and the slave-trade.

In spite of their inspirational quality, current mainstream interpretations of these religiously inspired normative principles on slavery and emancipation are terribly unsatisfying when one examines the actual history of slavery and abolition in the Muslim world. They simply do not generate the kind of critical thinking required of those who would seek to gain a competent understanding of their own history. Several contemporary Muslim scholars have recognized this short-coming. The great Pakistani religious scholar and philosopher, Fazlur Rahman (1919-1988) in arguing for a fresh hermeneutic in interpreting the Qur'an, suggested that consideration of the interpretive problems raised by the issue of slavery would be a good starting point in developing the new hermeneutic, although he pointedly left the task to others.<sup>19</sup> Professor Nasr Abu Zaid, an Egyptian academic declared to be an apostate and driven into exile in 1995 by traditionist Egyptian *'ulama* and their judicial allies, has also called for critical thinking on the issue of slavery. He recently asked:

What about slavery? Slavery as a socio-economic system is mentioned in the Qur'an---it is a historical reality. Human beings have developed their thinking since the seventh century. Slavery is no longer an acceptable socioeconomic system in most parts of the world. How can we use the Word of God to legitimate a heinous system that human beings no longer generally practice? If we do legitimate such a thing, we freeze God's Word in history---but the Word of God reaches way beyond historical reality. Slavery is something that is not

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<sup>18</sup> The Prophet Muhammad is reported to have said: "Whoever kills his slave: he shall be killed. Whoever imprisons his slave and starves him, he shall be imprisoned and starved himself, and whoever castrates his slave shall himself be castrated." (Abu Dawud, *Diyat* 70, Tirmidhi, *Diyat* 17, A,-Nasa'i, *Qasama*, 10, 16)" Fethullah Gulen, the modern Turkish sufi and religious leader, in his address "How is it that Islam allows slavery?" at <http://www.central-mosque.com/fiqh/slav1.htm>.

<sup>19</sup> Fazlur Rahman, *Islam and Modernity: Transformation of an Intellectual Tradition* (Chicago: University of Chicago Press, 1982).

Qur'anic. Jurists, those folks in the Islamic world responsible for developing law, need to apply a healthy dose of critical thinking to their job as they go about the business of forming a just society---one that moves in the direction of the Word of God.<sup>20</sup>

There have been a few, but not many others, who have asked similar questions.<sup>21</sup> The conventional wisdom is that Islamic law, or the *Shari'a* as it is often described, rapidly repaired to the margins of Muslim life and society in all of these realms.<sup>22</sup> The colonial law and its progeny, the law of the neo-colonial and newly independent governments in these communities, became the only law that mattered. This perceived marginalization of Islamic law has important legacies.<sup>23</sup> There are many who maintain that the *Shari'a*, as a system of law, cannot adequately assist Muslims in grappling with the demands of modern life and that it will ultimately fail to foster the well-being of people living in the Islamic world because it is a pre-modern anachronism.<sup>24</sup> These critics point to the problem of slavery as a prime example of the failure of Islamic law in the modern world.

That argument is strengthened by another conventional historical wisdom which tells us that there was never any significant indigenous impetus for the abolition of slavery in the

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<sup>20</sup> Nasr abu Zaid, "The Nexus of Theory and Practice," *The New Voices of Islam: Rethinking Politics and Modernity: A Reader*, ed. Mehran Kamrava (Berkeley and Los Angeles: University of California Press, 2006) 153-176, 155. See also Nasr Abu Zaid, *Reformation of Islamic Thought: A Critical Historical Analysis* (Amsterdam: Amsterdam Univ. Press, 2006).

<sup>21</sup> Khalid Abu al Fadl's work is probably the best recent example, although his focus is not exclusively on slavery but rather on critical historical analysis of patterns of gender discrimination and subordination. Khaled Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority, and Women* (Oxford: Oneworld, 2001).

<sup>22</sup> The *Shari'a* is the entire corpus of Islamic law and jurisprudence, encompassing the positive law or "*fiqh*," ["comprehension" or "understanding"] and the methodologies for deriving the positive law from the sources, or "*usul al-fiqh*" ["the roots of understanding"]. On the question of Muslim assertions of Islam's insistence on human equality, see Mohammed Hashim Kamali, *Principles of Islamic Jurisprudence*, 3rd rev. and enl. ed. (Cambridge, U.K.: Islamic Texts Society, 2003), 2.

<sup>23</sup> The rise of false jihadist ideologies may be directly related to a perceived marginalization of Islamic law. See Bernard K. Freamon, "Martyrdom, Suicide, and the Islamic Law of War: A Short Legal History," *Fordham International Law Journal* 27 (2003): 299.

<sup>24</sup> 'Abdallahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of the Shari'a* (Cambridge, Mass.: Harvard University Press, 2008).



Muslim world. In point of fact, the horrific thirteen hundred year history of the Indian Ocean, Mediterranean and trans-Saharan slave trades, and of chattel slavery in Muslim communities belies the strident Islamic egalitarianism that characterizes the normatively top-heavy uses of history noted above. Even though this strident egalitarianism is, in many ways, one of the hallmarks of the Islamic religion, the historical evidence, it is argued, suggests that Islamic egalitarianism, in spite of its success as a powerfully galvanizing force in spreading the religion, made virtually no contribution to the closing of the slave trades and the eventual widespread elimination of chattel slavery in Muslim communities. Slavery in the Muslim world was never really abolished, the argument runs, it just disappeared, largely as a result of pressure from Western governments, including British naval anti-slaving patrols, treaties with and financial reward schemes for local indigenous Shaykhs, and the shaming exhortations of European and American abolitionist movements. It was the hegemony of colonialism that ended slavery in the Muslim world, substituting one pervasive regime of inequality and hierarchy for another. Now that the colonialist legacy has receded, it is argued, slavery may indeed reappear in Muslim communities. Recent events suggest that chattel slavery and apartheid-like inequalities are still a problem in some Muslim communities in the Sahel, Sub-Saharan Africa, and in the Persian Gulf.<sup>25</sup>

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<sup>25</sup> See Jok Madut Jok, *War and Slavery in Sudan* (Philadelphia: University of Pennsylvania Press, 2001); John Eibner, "Eradicating Slavery in Sudan," *Boston Globe*, February 22, 2006, [http://www.boston.com/news/globe/editorial\\_opinion/oped/articles/2006/02/22/eradicating\\_slavery\\_in\\_sudan/](http://www.boston.com/news/globe/editorial_opinion/oped/articles/2006/02/22/eradicating_slavery_in_sudan/) (accessed October 13, 2008) (163 southern Sudanese liberated from slavery by the government's Committee for the Eradication of the Abduction of Women and Children); "Slavery and Slave Redemption in Sudan: Human Rights Watch Backgrounder," <http://www.hrw.org/backgrounder/africa/sudanupdate.htm> (accessed October 13, 2008) (detailing slavery and slavery-like conditions in Western Sudan and the failure of "redemption" schemes); Colin Nickerson, "One by One, Slaves in Sudan are Bought and Freed by Western Groups," *Boston Globe*, December 19, 1999. (Christian anti-slavery society reports purchasing fifteen hundred captives from Muslim slave dealers and other marauders in war-torn Sudan). See also Gregory Kane, "Series---Witness to Slavery," *Baltimore Sun*, June 17-18, 1996. (*Baltimore Sun* details successful effort by two of its investigative reporters to purchase two slaves in

These facts should be deeply disturbing to Muslims and others sympathetic to the Islamic project. They suggest that the Islamic conceptions of equality are not truly universal and may not be very useful to Muslims seeking to establish egalitarian political and social orders in the modern world. This leads to the further intimation that Islamic egalitarianism is nothing more than a rhetorical device in the hands of the proponents of the religion, useful for political propaganda and religious proselytizing but without real moral force in influencing the everyday behavior of observant Muslims. The history of the classical interpretations of the Qur'an by the mainstream 'ulama' tends to bear this out.<sup>26</sup>

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Sudan). There have been similar stories about Mauritania: Elinor Burkett, "God Created Me to Be a Slave," *N.Y. Times*, October 12, 1997. For information on modern day slavery in the Persian Gulf see Ghaith Abdul-Ahad, "We need slaves to build monuments," *The Guardian* (U.K.), <http://www.guardian.co.uk/world/2008/oct/08/middleeast.construction> (accessed October 13, 2008). (detailing conditions for workers in Dubai and Abu Dhabi); Suzanne Miers, *Slavery in the 20<sup>th</sup> Century: The Evolution of a Global Problem* (Lanham, Md.: Rowman Altamira, 2003) (extensive discussion of problems of modern day slavery in the Persian Gulf). I have argued elsewhere that there now appears to be a broad consensus among Muslim jurists that slavery is now illegal under Islamic law (*haram* or "forbidden" in the language of Islamic jurisprudence) and can never be legally revived again: Bernard K. Freamon, "Slavery, Freedom, and the Doctrine of Consensus in Islamic Jurisprudence," *Harvard Human Rights Journal* 11 (1998): 1; See also, Abdullahi Ahmed An-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law* (Syracuse: Syracuse University Press, 1990), 175.

<sup>26</sup> The 'ulama' are an important indigenous elite in Islamic society. The word 'ulama' is the plural of the Arabic word 'alim, which means "learned" or "erudite." Hans Wehr, *A Dictionary of Modern Written Arabic*, ed. J. Milton Cowan (Ithaca: Spoken Languages Services, 1994), 744. The word 'ulama', when used as a collective noun, means "learned ones" and describes the religio-legal class of scholars who are usually present and active in almost all legal discourse in every Muslim community. Over the centuries the 'ulama' have carried out an important role in juridical decision-making. See D.B. MacDonald, "Ulama," *E.J. Brill's First Encyclopaedia of Islam 1913-1938*, eds. A.J. Wensinck, M.Th. Houtsma, H.A.R. Gibb, W. Heffening & E. Levi-Provencal (Reprint, Leiden: Brill, 1987), 8, 994. In the classical conception of Islamic law, the 'ulama' bear the primary responsibility for ensuring that the *Shari'a*, the corpus of Islamic law, and its primary texts, the *Qur'an* and the *Sunnah*, are correctly taught, recited, interpreted and applied by the believers, including university teachers, religious and legal authorities, political leaders, and members of the government. This conclusion follows from the classical view of the Islamic doctrine of *ijma'* (scholarly consensus) which is in turn derived from interpretations of a number of verses in the *Qur'an*. These verses, particularly 4:59 and 4:83, insist that the believers consult with the *ulu-al-amr* (those who hold authority or command) in resolving disputes concerning interpretation of the *Qur'an* and other matters of law and policy. See also Muhammad Hashim Kamali, *Principles of Islamic Jurisprudence*, rev. ed. (Cambridge, U.K.: Islamic Texts Society, 2003), 231-2 (explaining the role of *ijma'* in ensuring correct interpretation of the *Qur'an*); Ahmad Hasan, *The Doctrine of Ijma' in Islam* (Lahore: Islamic Research Academy, 1978), 28-32 (explaining the role of scholars in the formulation of *ijma'*). As I shall show, there is an argument that, since the demise of the Ottoman Empire and the arrival of European colonialism, this view of the 'ulama' is now nothing more than an anachronistic ideal, with absolutely no reference to the current juridical reality in Islamic communities.

This paper will argue that both the “conventional wisdoms” positing the irrelevancy of the *Shar’ia* in the struggle against slavery and the anti-slavery lessons of the normatively instrumental accounts from the formative years of the Islamic project both over-generalize and widely miss the mark, obscuring our ability, and more importantly, the ability of modern Muslims, to understand these important histories. When these issues are viewed in the context of the future of Islamic law, the stakes are indeed very high. Much of the Islamic world is currently convulsed with anxious concern for Islamic law’s relationship---or perhaps, non-relationship---to the great issues of our time. These convulsions include demands for installation of democratic governments, equality for women, respect for the rights of non-Muslim citizens and minority groups, rejection of false jihadist ideologies, and freedom of expression and conscience as fundamental entitlements of all persons. Although the stakes are probably at their highest level in over a hundred years, these challenges are not new. They first began to stir the Islamic jurisprudential pot when European colonial powers commenced the long season of occupation of the Arab, Mediterranean, and Indian Ocean Worlds beginning in the early seventeenth century. That season was accompanied by insistent demands for the abolition of slavery. A steady accretion in the influence of Western jurisprudence followed, often accompanied by military domination, diplomatic encirclement and marginalization, industrialization, imperial agenda-setting, and economic necessities. By the nineteenth and early twentieth centuries, all three of the worlds came to be dominated by European imperial and jurisprudential hegemonies.

I will argue that Islamic law did play a significant, although not easily discovered, role in the events that led to the adoption of legal rules and jurisprudential norms seeking to abolish

slavery and the slave trades in the Indian Ocean and Arab worlds. This role is bound up in the development of an intertwined “plural” set of imperialisms. I will show that slavery was the glue that bound these imperialisms together. My tentative conclusion is that the abolitionist enterprise largely failed, in spite of the adoption of those norms and the efforts of the intertwined plural imperial entities. This means that it is not enough to just associate slavery and abolition with the colonialist and imperial legacies. Rather, there is an urgent need to employ the tools of critical historical analysis, particularly critical legal history, so as to unveil the role of Islamic law in those events. Such an analysis will help us understand the approaches of the modern Muslim mind to the problem of slavery and abolition and to inform us on how that history might be of service in Muslim communities today. In my view, if we can understand what happened in the Islamic world with respect to the issue of slavery and its abolition, we will be much better equipped to approach the issues I have outlined above, particularly with respect to those questions that depend for their resolution on the application of robust and effective conceptions of human equality. Examination of the history of slavery and abolition in the Islamic world will therefore offer us a window on Islamic thought processes generally and, more particularly, the viability of Islamic law as an agent of or impediment to reform.

There are some great dangers involved in this enterprise. One danger involves the very real temptation to essentialize our discussion of the Islamic communities involved and to conflate issues in the comparisons of communities and regimes with each other.<sup>27</sup> We may discover that Islamic thought, the so-called Muslim mind, is not one, but plural and diverse. This

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<sup>27</sup> See, Ehud R. Toledano, “Enslavement and Abolition in Muslim Societies,” review of *Islam and the Abolition of Slavery*, by William Gervase Clarence-Smith, *Journal of African History*, 48 (2007): 481-5. (arguing that this danger can lead to very undesirable results that obscure understandings and lead to false or unprovable conclusions).

is true for jurisprudential thought as well as in the realm of religious doctrine. To aid in combating the danger of essentialist thinking, my discussion will confine itself, as the subject of the conference demands, to selected communities and regimes in the Indian Ocean World. Even within this limitation we will discover that there was tremendous complexity and variety in the approaches to the problem of slavery and abolition. The focus of this paper will therefore be on three discreet topics: (1) pluralism and its impact on conceptions of empire, slavery, and abolitionism in the Indian Ocean World, particularly legal conceptions; (2) historical memories of slavery and abolitions and the manifestations of that memory as evidenced in contemporary events and behaviors; and (3) “badges and incidents” of slavery in the region and the attitude of Islamic law toward such phenomena. Keeping Thelonious Monk’s example in mind, I will seek to discover as much of the “unvarnished truth” as I can. I will be pleased if I am able to contribute some understanding in any way, however modest or tentative the contribution may be.

**The State of the Historiography and the Search for Realistic Conceptions of Slavery and Abolition in the Indian Ocean and Arab Worlds**

I start with the now oft-stated observation that the trans-Atlantic account of slavery and abolition does not tell the whole story of slavery’s place in world history. Unconscious and subtle pressures to view all slavery through the prism of the trans-Atlantic paradigm, one that suggests that the institution is a “monolithic, one-size-fits-all phenomenon” characterized by the classic markers of racialized chattel slavery, with a history of a “triumphant march from bondage to freedom,” may actually obscure our understanding of the institution’s nature,

history, and impact in other places.<sup>28</sup> This masking of historical insight is dangerously hegemonic and it can have a direct effect on efforts to address contemporary social, economic, and legal issues arising out of the history of slavery and slave-trading in non-Atlantic locales.<sup>29</sup> As Frederick Cooper has pointed out, oceans, empires, and continents are about “intertwined” histories, not histories that are stand-alone and disconnected.<sup>30</sup> This is especially true with respect to empires, as they are the direct product of human agency and often offer multiple and ambiguous justifications for their actions. What I hope to show here is that the European imperial history in the Indian Ocean was much more “intertwined” with the legacy of the several Islamic empires that they sought to replace than has been previously acknowledged. This led to a new kind of pluralism not seen in world history before, a phenomenon I call “plural imperialisms.”<sup>31</sup> The Indian Ocean was not a “British lake” but rather an “Anglo-Islamic” lake. Further, it was not just the naval and mercantilist tentacles of the British Empire that made the lake a powerful commercial and maritime unit but also a strong and vibrant web of economic, cultural, and religious connections between and among the Islamic empires that thrived along the shores of the Indian Ocean and its Red Sea and Persian Gulf estuaries prior to and after the

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<sup>28</sup> Richard M. Eaton, “Introduction,” *Slavery & South Asian History*, eds. Indrani Chatterjee and Richard M. Eaton (Bloomington: Indiana University Press, 2006), 1.

<sup>29</sup> A good example of this kind of attitude is illustrated by an observation made by David Eltis, in reviewing Martin Klein’s excellently edited volume on slavery and emancipation in Africa and Asia. He rather blithely observed that it is “hard to visualize abolition without the Americas. Furthermore, although Western societies greatly increased both the global incidence and severity of slavery after 1492, it is almost impossible to imagine a world in which slavery is vilified without the experience of the West.” David Eltis, review of *Breaking the Chains: Bondage and Emancipation in Modern Africa and Asia*, ed. Martin A. Klein, *Journal of Interdisciplinary History* 26(3) (Winter, 1996): 550.

<sup>30</sup> Frederick Cooper, *Colonialism in Question* (Berkeley, Los Angeles, and London: University of California Press, 2005), 100-104.

<sup>31</sup> The collection of essays in Anthony Reid and Michael Gilsenan, eds., *Islamic Legitimacy in a Plural Asia* (London and New York: Routledge, 2007) is helpful in understanding this concept. In his introductory essay, Reid argues that the English and Dutch policies of “non-interference” with indigenous religious practice in India and Southeast Asia created a pluralist milieu in India and Southeast Asia. Anthony Reid, “Introduction” in *Islamic Legitimacy in a Plural Asia*, pp. 7-11. In my view, that milieu also led to plural conceptions of slavery and abolition as well.

arrival of the Europeans. Slavery was the chief connective sinew of this pluralistic web.<sup>32</sup> These facts become more obvious when we examine the efforts to abolish slavery and the role of Islamic law in those processes. In some cases the abolitionary processes may have even been contingent on understandings of Islamic law and largely driven by the attitudes of Muslims rather than by the European imperial imperatives or humanitarian concerns. This was a radically different situation than that which existed in the Atlantic World.

There are also subtle and unconscious pressures to view the Indian Ocean and Arab Slave Trades as exclusively concerned with the transporting Africans, in chains, across the seas and the deserts. The Indian Ocean and Arab slave trades were not just about Africans. There is no certainly doubt that Africans comprised the bulk of the population of those who were subject to the trades, at least in the western Indian Ocean. Historians estimate that, between 800 C.E. and 1900 C.E., at least twelve million Africans were involuntarily transported from the interior of Africa to various destinations on the southern and northern shores of the Mediterranean, in the Mascarene Islands, on the Arabian Peninsula, in the Persian Gulf, and on the Indian sub-continent.<sup>33</sup> Although a good portion of these migrants traveled over the Sahara Desert,<sup>34</sup> a considerable number, estimated to be at least five million, traveled over the Red Sea and the Indian Ocean to destinations on the northeast coast of Africa and on the Asian

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<sup>32</sup> For articulation of the assertion that the Indian sub-empire was a “web” of entities, with nodes of imperial activities rather than a large wheel, having spokes radiating from a center, see Thomas R. Metcalf, *Imperial Connections: India in the Indian Ocean Arena, 1860-1920* (Berkeley: University of California Press, 2007).

<sup>33</sup> Robert O. Collins, “The African Slave-trade to Asia and the Indian Ocean Islands,” *African and Asian Studies*, 5 (¼) (2006), 328, citing Paul E. Lovejoy, *Transformations in Slavery: A History of Slavery in Africa* (Cambridge, U.K.; New York: Cambridge University Press, 2000), Tables 2.1, 2.2, 3.7, 7.1, and 7.7.

<sup>34</sup> I do not mean to diminish the importance of the trans-Saharan trade and the milieu it created. The scholarship on this aspect of slavery and the slave-trade is, however, still in its infancy. For more information on the trans-Saharan trade, see Dennis D. Cordell, *Dar al-Kuti and the Last Years of the Trans-Saharan Slave Trade* (Madison: University of Wisconsin Press, 1985); *Human Commodity: Perspectives on the Trans-Saharan Slave Trade*, ed. Elizabeth Savage (London: Frank Cass, 1992); John Wright, *Trans-Saharan Slave Trade* (New York: Routledge, 2007).

continent. There were, however, significant numbers of non-African involuntary migrants who were also transported westward, from the islands of the Far East, the Asian Steppes, Nepal, Bengal, the Malabar Coast, and the shores of Baluchistan to the cosmopolitan centers of the Middle East and to centers of commercial production in East Africa.<sup>35</sup> Gwyn Campbell notes that slaves sometimes constituted between 20 and 30 per cent of the populations of Indian Ocean societies, “rising to 50 percent and over in parts of Africa and in Indonesian ports.”<sup>36</sup> This trade, and the systems and practices of slavery that it fed, were much more complex, multidirectional, and fluid than the trans-Atlantic trade and the latifundial systems of the Western Hemisphere.<sup>37</sup> This complexity took a variety of forms, including highly stratified systems of labor organization, military slavery, naval slavery and other forms of elite servitude, elaborate concubinal arrangements, praedial slavery and debt bondage, in some cases well-developed and fluid methods for manumission, as well as quasi-emancipatory conditions and statuses. Further, governmental, imperial, and academic definitions and conceptions of slavery and the role of slaves in the societies which developed as a result of experience in the region tended to challenge and confound Western attempts to accomplish abolition. As Martin Klein observed, “[t]hose who wished to end slavery in the world faced a more difficult agenda in the Indian Ocean than they did in the Atlantic....”<sup>38</sup>

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<sup>35</sup> A.L.P. Burdett, “Introduction,” in *The Slave Trade into Arabia: 1820-1973*. ed. A.L.P. Burdett. (Chippenham, U.K.: Archive Editions, 2006) I, vi; Gwyn Campbell, “Slave Trade and Slavery in the Indian Ocean—A Survey,” (Paper presented at Dialogue between Civilizations conference, Zanzibar, Tanzania, August 13-17, 2008).

<sup>36</sup> Gwyn Campbell, “Introduction: Slavery and Other Forms of Unfree Labour in the Indian Ocean World,” *The Structure of Slavery in Indian Ocean Africa and Asia*, ed. Gwyn Campbell (London; Portland, Or.: Frank Cass, 2004), ix.

<sup>37</sup> Ibid.

<sup>38</sup> Martin A. Klein, “The Emancipation of Slaves in the Indian Ocean,” *Abolition and its Aftermath in Indian Ocean Africa and Asia*, ed. Gwyn Campbell (London: Routledge, 2005), 198.



Examination of the historiography of slavery and abolition in the Islamic world and particularly in the Indian Ocean World offers several striking truths that the historian must confront. First, indigenous Muslim historians have spent very little time or energy writing about slavery and abolition. The fraternity of historians concerned with slavery and abolition in the Islamic world is indeed very small and it is largely, although not exclusively, European, Israeli, and American.<sup>39</sup> If we narrow the focus to legal history the circle grows even smaller. Much of the historiographical attention comes from the outside and some continue to frame the issues using trans-Atlantic paradigms.

Secondly, there are very few cogent and reliable narratives available to us that would assist in gaining a first-hand understanding of the world that the slaves lived in and the impact of Islamic law on their lives. This is a rather startling actuality, one that stands in great contrast to the number of narratives we have in the historiography of slavery and abolition in the Atlantic world. The voices from the past in the historiography of Muslim slavery and abolition are largely “hearsay” voices---voices from the heads of Islamic imperial entities, military divisions, and their scholarly apologists describing their attitudes toward events as they

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39. The early contributions of Bernard Lewis, Rex O’Fahey, John Hunwick, Ehud Toledano, Patricia Crone, Suzanne Miers, R. B. Serjeant, Martin Klein, Paul Lovejoy and the late John Ralph Willis have led the way. (Bernard Lewis, *Race and Slavery in the Middle East: An Historical Enquiry* [New York: Oxford University Press, 1990]; Ehud R. Toledano, *The Ottoman Slave Trade and Its Suppression: 1840-1890* (Princeton: Princeton University Press, 1982); Ehud R. Toledano, *Slavery and Abolition in the Ottoman Middle East* (Seattle: University of Washington Press, 1998); John O. Hunwick, “Black Africans in the Mediterranean World: Introduction to a Neglected Aspect of the African Diaspora,” *The Human Commodity: Perspectives on the Trans-Saharan Slave Trade*, ed. Elizabeth Savage. (Routledge, 1992), 5-6; R.S. O’Fahey, *Slavery and Society in Dar Fur*, (London: C. Hurst, 1990); Patricia Crone, *Slaves on Horses: The Evolution of the Islamic Polity* (New York: Cambridge University Press, 1980); Suzanne Miers and Igor Kopytoff, eds., *Slavery in Africa: Historical and Anthropological Perspectives* (Madison: University of Wisconsin, 1977); Suzanne Miers, *Britain and the Ending of the Slave Trade* (New York: Africana, 1975); R.B. Serjeant, *Customary and Shari’ah Law in Arabian Society* (Hampshire: Gower, 1991), John Ralph Willis ed., *Slaves and Slavery in Muslim Africa* (London, Totawa, N.J.: Frank Cass, 1989) (2 Vols).

understood them as well as voices from the accounts of travelers, diplomats, merchants, soldiers, and sailors who entered the Islamic world at the forefront of the European imperialist and colonial venture and recorded their observations. The subjects of the slave holding and slave trading milieus have not spoken to us, at least not yet.<sup>40</sup>

Thirdly, and perhaps most importantly, legal conceptions of slavery and the culturally and socially defined essences of the servile condition varied from place to place and sometimes even within a particular place. There were also strikingly differing attitudes toward the enterprises of slave raiding and slave trading, enterprises that were often patently illegal under the *Shari'a*. This state of affairs therefore had a profound effect upon the processes of abolition initiated by the British. It also influenced how people remembered slavery and what remained of it after the colonial law imposed what the lawmakers in the metropole thought would be a universal abolition. In point of fact, in most places in the Indian Ocean and Arab Worlds, abolition, as the term is understood by colonial administrators and now by Western historians, never really happened. To understand all of this requires that we reflect on the roles and histories of the important Islamic entities that influenced these events.

### **Plural Imperialisms**

Let's begin with a brief overview of the histories of four Islamic polities in the Indian Ocean and Arab worlds and their relation to the slave trades as they flourished in the late eighteenth to late nineteenth centuries. The four polities are Khedival Egypt, the Omani Empire, the Persian Gulf Sheikdoms, and the Sulu Empire in the Southeast Asia. I will show that slavery

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<sup>40</sup> Eve Troutt Powell, "Will this Subaltern Ever Speak? Finding African Slaves in the Historiography of the Middle East," *Middle East Historiographies: Narrating the Twentieth Century*, ed. Israel Gershoni, Amy Singer, and Y. Hakan Erdem (Seattle: University of Washington Press, 2006).

and slave trading functioned as common threads among and between all of these polities. The discussion must also include consideration of the commercial, political, and diplomatic efforts of the British to dominate these entities and the resulting “plural imperialisms” that this created. As part of that discussion, we will also have to consider slavery in India and efforts to abolish it, even though India does not qualify as an “Islamic” regime. That being said, we will see that slavery in India was also heavily influenced by Islamic norms, customs, and practices.

As I earlier suggested, the Indian Ocean and Arab Worlds gradually developed into a “web” of intertwined and plural imperial entities, beginning in the seventeenth century and reaching its zenith in the middle of the nineteenth century. The mainstream historiography of this period suggests that the Indian Ocean arena came to be dominated by British, Dutch, and French imperialist intrusions, each carving out a sphere of influence, with the British taking the lion’s share of the space. There is no doubt that the Western imperial powers exercised extraordinary influence during this time. This is particularly true in India, where the East India Company, the British Raj and, eventually, the British Crown Colony exclusively occupied the field. Yet it must also be acknowledged that these empires, particularly the British, fostered and, in some cases actually encouraged fealty to the old and contemporary Islamic imperial entities and many of the important economic and social relationships and connections that made the empire work depended on the vestiges of pre-colonial imperial structures and adapted structures for their vitality. As Sugata Bose has pointed out, the pre-colonial Indian empires, especially the Mughals, depended on a “layered” and “shared” sense of sovereignty,

emphasizing incorporation rather than subordination.<sup>41</sup> This vision of empire contemplated “multiple overlords” and pluralistic sovereignties. This is consistent with the history of Islamic government and law in the region. Islamic jurists recognized the importance of customary law in their perspective on the administration of Muslim empires and all over the Middle East and Asia, from the time of the Abbasid Caliphate onward, conquered peoples were permitted to retain their local customs and practices as long as they were not inimical to core Islamic legal norms. Cooperating with and co-existing along side another sovereign was not a new experience for the Muslim sovereigns in the region and it was not inconsistent with their vision of government. Even if that other sovereign held all the military cards, Muslim sovereigns generally found a way to coexist and advance their economic or political or social agendas.

### **Slavery in India**

Much of India in 1600 was under the domination of the Mughal Empire, a courtly Islamic imperial culture founded by invaders of Mongolian origin who invaded the region some one hundred years earlier, crossing the Hindu Kush from Kabul through what came to be called “The Northwest Frontier.”<sup>42</sup> By 1705 the empire subsumed much of what is now modern day India and Pakistan. The Mughals were not the first Muslim invaders and imperial personages to occupy India. Arab military forces, “including possibly a few grey-bearded disciples who had prayed with the Prophet himself,…” first crossed the Bolan pass near Quetta in what is today modern Pakistan in 663 C.E.<sup>43</sup> The Arabs also struck up lively maritime trading arrangements with several port-cities on the coasts of Baluchistan, lower Sind, the west coast of India, and

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<sup>41</sup> Sugata Bose, *A Hundred Horizons: The Indian Ocean in the Age of Global Empire* (Cambridge, Mass.: Harvard University Press, 2006) 70.

<sup>42</sup> Ibid. See also John Keay, *India: A History* (New Delhi: Harper Collins, 2000), 289-319.

<sup>43</sup> Keay, *India: A History*, 181.

with Sri Lanka soon thereafter. By the mid-seventh century there were significant communities of Muslims living in all of these port cities.<sup>44</sup> Arab tribes subsequently invaded upper Sind in the eighth century, bringing Islam to that area as well.<sup>45</sup> Trading between the predominantly Hindu and significant Buddhist communities on the Indian peninsula and the Arabs was robust. Similarly, trading links were soon established between the Bengal littoral and the new Muslims sultanates and city-states in the Indonesian archipelagos to the east. This is an important development that I will discuss in relationship to slavery in the Sulu Empire. All of the trading systems I will describe included the buying, selling, and transportation of slaves, as slavery was an accepted and well-established part of the social and economic fabric in all of these societies.

Economic considerations and Islam were not the only driving forces behind the existence of slavery in India. The classical Hindu law provided for fifteen different categories of enslavement and not all were related to traditional labor relationships nor were they necessarily connected to Hindu caste categories.<sup>46</sup> There were a great variety of relationships of dominance and submission, hierarchy and subservience, and the categories were often fluid and interchangeable.<sup>47</sup> Apologists for benignity of Muslim slavery are fond of pointing out that various aspects of the Islamic law favored emancipation. This is undoubtedly true and it has been observed that in many Middle Eastern and Indian Ocean communities, slaves might only remain unfree for ten years or so, thus requiring the constant replenishment of the servile population. The Islamic law liberally allowed and encouraged emancipation and the law stipulated that the child of man and his concubine, the *umm al-walid*, would be born free. The

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<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> D.R. Banaji, *Slavery in British India* (Bombay: Taraporevala Sons, 1933), 1-2 .

<sup>47</sup> See Indrani Chatterjee, *Gender, Slavery and Law in Colonial India* (New Delhi: Oxford University Press, 1999), 1-33.

presence in the household of the child of such a union, he or she being legally free, would generally greatly enhance the status of the mother. This was particularly the case with respect to male children born of concubines in important households.<sup>48</sup> For example, of the thirty-seven caliphs of the Abbasid Caliphate, lasting over a period of more than 500 years, thirty-four were the sons of slave-mothers.<sup>49</sup> As a number of other scholars have observed, the institutionalization of the *umm al-walid* rule, together with the other encouragements of emancipation, were signs of the benign nature of Muslim slavery. These scholars have, however, ignored another important fact. The Hindu law and the general practice throughout the Indian Ocean World had long recognized a similar rule stipulating freedom for the male child of a female concubine and it may very well be that the early Muslim jurists borrowed this principle from older slave systems in the east.<sup>50</sup> Even though modern Muslim jurists like to cite the *um al-walid* rule as an example of Islamic benevolence, the rule appears to have been borrowed from the older Hindu jurisprudence.

Muslims employed slaves in a variety of functions and, unlike the Hindu system, slaves in the Muslim communities could rise to extremely powerful political, military, and administrative positions in the government. Perhaps the best example of such circumstances in pre-Mughal India is the rise of the so-called “slave dynasties” in Delhi between 1206 C.E. and 1290 C.E. The Sultans in Delhi, like the “Mamluk” Sultans who ruled Egypt for three hundred years beginning at about the same time, began to employ Turkic slave soldiers in their military adventures and in professional functions around their palaces in South Delhi. It was during this

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<sup>48</sup> There appear to be some obscure opinions holding that the female child of such unions were not free and could be sold away by the father-owner.

<sup>49</sup> Borge Fredriksen, “Slavery and Its Abolition in Nineteenth Century Egypt” (Bergen, Norway: Historisk Institutt, Universitetet i Bergen, 1977) 78.

<sup>50</sup> Footnote

time that the Muslims brought much of India under their subjugation and the personage of the slave soldier or “mamluk,”<sup>51</sup> an individual with no familial or political ties to the local population and in absolute service to the Sultan, became a permanent fixture on the social scene in early modern India.

The Delhi Sultanates (1194-1526 C.E.) were not the only Muslim polities to exert influence in Indian life and society. Muslims invaded Bengal and Bihar and the campaigns of Babur, his son Humayun, and the Afghan Sher Shah conquered, then lost, then reconquered Afghanistan, Punjab, Sind, Malwa, Gujarat, and Vijayanagar at various times. This set the stage for the rise of the Mughals who, under their great ruler Akbar, Humayan’s son, (1556-1605 C.E.), established the empire that the British encountered when the East India Company began to do business there in the early seventeenth century.<sup>52</sup>

The Mughal empire under Akbar was truly remarkable. His reign, lasting fifty years, “would outshine that of all Indian sovereigns.”<sup>53</sup> He is sometimes compared to Alexander the Great. Under his reign the Mughal empire expanded northward into Tibet, eastward to Bengal and portions of Burma, westward to edges of the Safavid empire in Iran and southward to Gujarat and the coasts along the Arabian Sea. Akbar was acutely aware of the fact that he was making history and he made sure that his exploits were well documented and celebrated in art, music, literature, and pious obeisance. “Not even Elizabeth I of England, Akbar’s exact contemporary, was so well served by annalists and artists.”<sup>54</sup> Representations of enslaved

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<sup>51</sup> This is the Arabic term, meaning “one who is owned.” There were a variety of terms for such personages, such as the term “ghulam” and sometimes “lashkar,” which were used in Mughal and colonial India to describe military and naval slaves.

<sup>52</sup> Keay, *India: A History*, 289-319.

<sup>53</sup> *Ibid*, 311.

<sup>54</sup> *Ibid*. Abu’l Fazl’s immense biography, largely dictated by Akbar, is just one example of this record.

persons, ubiquitous and performing all varieties of tasks, are present in all of the wealth of art and literature that Akbar left us. There were periods of reform in regard to slavery during his reign and he is viewed in some quarters as an abolitionist figure. In point of fact, he did not abolish slavery and the Mughal society encountered by officials of the Company was, without doubt, a robust slave-holding society as that term is used by Moses Finley, just as were ancient Greece and Rome.<sup>55</sup>

The Company's primary strategy in dealing with Akbar and his successors was to obtain a *farman* (also *firman*, a word of Persian origin meaning "edict" or "directive") from the Emperor, permitting them to do business in the realm under favorable trading conditions.<sup>56</sup> This method soon deteriorated into a series of wars and skirmishes between the Company and the Mughals, particularly Aurangzeb, the last of the great Mughal emperors. The favored military tactics on both sides were actually naval, with one side and then the other attacking each other's shipping.<sup>57</sup> This strategy shows the importance of the maritime trade to and from India at the time. The British were not always successful in these encounters; in 1689, for example, they temporarily lost Bombay to a marine force led by Sidi Yakub, an African Mughal marine commander.<sup>58</sup> In spite of setbacks on the west coast of India, British trading in Madra, Calcutta, and Gujarat flourished and the Company's shareholders made huge profits from the shipping of silk, ivory, cotton, spices, molasses, saltpeter, and indigo back to England in the

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<sup>55</sup> Gavin Hambly, "A Note on the Trade in Eunuchs in Mughal Bengal," *Journal of the American Oriental Society* 94(1) (Jan.-Mar. , 1994): 125-130. The Mughal reforms are nicely catalogued by William Gervase Clarence-Smith . See, William Gervase Clarence-Smith, *Islam and the Abolition of Slavery* (Oxford: Oxford University Press, 2006) 90-91.

<sup>56</sup> Keay, *India: A History*, 369-377

<sup>57</sup> Ibid.. .

<sup>58</sup> Ibid., 372. Bombay was not originally a Mughal or Hindu city. It began as a small trading village established by the Portuguese. Charles II received the city in 1661 as part of the dowry of his Portuguese bride, Catherine of Braganza. Ibid., 370-1. The Crown transferred the city to the Company by letters patent in 1668. Ibid., 371.



famous “Indiamen” sailing vessels.<sup>59</sup> In the end, the Company stepped into the shoes of the Mughal emperor and consciously began to behave as the new “oriental despot.” This behavior included the buying and selling of slaves and a tolerance for the Indian Ocean slave trade. This tolerance continued up until and beyond the enactment of the 1833 U.K. Emancipation Act, which purported to abolish slavery in British dominions. The act exempted the territories under the sovereignty of the East India Company, as well as Ceylon and St. Helena’s Island.

### **The Omani Empire—“The Bedouins of the Sea”**

Since the earliest days of recorded history, traders were interested in procuring slaves from the ranks of the people of East Africa and marketing them to buyers in the Middle East and on the Indian subcontinent. This trade developed over time and became geographically a triaxial trade between the coast of East Africa and three areas to the north and northeast. Traders traveled to and from East Africa along these three axes in large ocean going dhows, depending upon the predictable Indian Ocean monsoon winds for propulsion.<sup>60</sup> After arriving on the East African coast with pottery, Chinese porcelain, dates, spices, perfumes, and cloth, they would return to their home port with ivory, animal skins, cloves, foodstuffs, and slaves.<sup>61</sup> The three axes ran north along the coast and then through the Red Sea to Arabia, Egypt, and the Mediterranean, northeast across the ocean to the ancient seafaring port of Muscat and other ports in the Persian Gulf, and east-northeast to Baluchistan, Kutch, the west coast of India, and ports in the Far East.

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<sup>59</sup> Ibid., 372-374;

<sup>60</sup> See Edward A. Alpers, “The African Diaspora in the Northwestern Indian Ocean: reconsideration of an old problem, new directions for research,” *Comparative studies of Asia, Africa and the Middle East* 17(2) (1997): 62-82; Joseph E. Harris, *The African Presence in Asia: Consequences of the East African Slave Trade* (Evanston: Northwestern University Press, 1971); Esmond Bradley Martin and Chryssee Perry Martin, *Cargoes of the East: The Ports, Trade, and Culture of the Arabian Seas and Western Indian Ocean* (London: Elm Tree Books, 1978).

<sup>61</sup> Esmond Bradley Martin, *Zanzibar: Tradition and Revolution* (London: H. Hmailton, 1978), 25

Slavery was an established part of East African life at this time and African entrepreneurs and other opportunists living along the coast of East Africa readily accepted the prospect of engaging in this lucrative trade, steadily supplying human beings to the traders and other visitors who called at their ports.<sup>62</sup>

In the eleventh century C.E., immigrants who were later called the Shirazi, because they likely originally came from the town of Shiraz in Persia, established a settlement on the southern end of the island of Zanzibar and constructed the first known mosque in East Africa.<sup>63</sup> The discourse between these immigrant groups and the indigenous Bantu population gave rise to the Swahili language, now one of the twelve great modern languages of the world, with a Bantu grammar and a large Arabic, Persian, and Portuguese vocabulary. Over the next few centuries there followed waves of more immigrants from the Hadramaut and Oman, from the Comoros Islands, Mauritius, and Madagascar to the south, with smaller numbers coming from India and the islands of the Far East.<sup>64</sup>

The Arabs living in Zanzibar took advantage of the monsoon winds to establish a regular and lively trading regime between Zanzibar and ports in their former homelands. According to C.S. Nicholls, the north-east monsoon is so powerful that an ocean going dhow could make the trip between Zanzibar and Muscat in as little as 25 days.<sup>65</sup> An active and quite well organized slave-trade between the Persian Gulf and Zanzibar emerged out of these circumstances. This slave-trade was largely organized and conducted by seafaring Omani trading families from

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<sup>62</sup> Martin, *Cargoes of the East*, 23-25, 31.

<sup>63</sup> Martin, *Zanzibar*, 24.

<sup>64</sup> Reginald Coupland, *East Africa and its Invaders from the earliest times to the death of Seyyid Said in 1856* (New York: Russel & Russel, 1965).

<sup>65</sup> C.S. Nicholls, *The Swahili Coast: Politics, Diplomacy and Trade on the East African Littoral 1798-1856* (London: George, Allen & Unwin., 1971), 74 (citing, at n.1, Smee's Log, 5 Mch. 1811, I.O.L., Marine Records Miscellaneous 586).

Muscat and the Persian Gulf. Unfortunately, there is very little documentary history of this trade but there is no doubt that it flourished.<sup>66</sup> In 1881, the American consul in Muscat described the Omanis as “Bedouins of the Sea.”<sup>67</sup>

The Omanis were colonizers and slavers. They had long had a colonial relationship with the East African coast and, through the offices of a number of notable families in Muscat, they reestablished their colonial and commercial suzerainty over Zanzibar when they reconquered it from the Portuguese in 1698.

Oman was then and still is ruled by a Sultan who is essentially confirmed in office by the ‘*ulama*’ of the community. The Omani polity was unique because the Omanis practice a distinctive kind of Islam, known as Ibadhism, an off-shoot of the remains of the Kharijite movement of early Islam.<sup>68</sup> The Ibadhis are probably the only Islamic sect in existence today that can claim that they are undeniably within the fold of Islam and yet not distinctly classifiable as Sunni or Shi’a. Their community is led by an *Imam*, like the Shi’a, but the *Imam* does not have to be a descendant of the Prophet Muhammad and he is not invested with the kind of infallibility that is characteristic of the Shi’a practice. The Omanis tend to be dynastic in their political organization and the group practices a kind of statecraft that emphasizes the duty of

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<sup>66</sup> Coupland, *East Africa*, 17-20. The tenth century Arab book *Adjaib al-Hind* states that 200 slaves traveled to Oman from East Africa in one year and that 1000 Omani ships were involved in trade with East Africa. Esmond Bradley Martin & T.C.I. Ryan, *A Quantitative Assessment of the Arab Slave Trade of East Africa 1770-1896*, n.13, 5 *Kenya Hist. Rev.* 73 (citing Richard Reusch, *History of East Africa* [New York: Ungar, 1961], 317). R.B. Serjeant has shown from Hadrami chronicles that slaves were exported from East Africa to Arabia before the Portuguese period. *Ibid.* 73, n.14 (citing R.B. Serjeant, *The Portuguese off the South Arabian Coast: Hadrami Chronicles* [Oxford: Clarendon Press, 1963], 10, 34).

<sup>67</sup> United States Archives, Despatches from United States consuls in Muscat, 1880-1906, Reel 1 (consular account of Omani commercial and fishing practices).

<sup>68</sup> T. Lewicki, “Al-Ibadiyya,” 3 *Encyclopaedia of Islam*, 3rd ed. (Leiden: Brill, 2008), 648-660.

the *Imam* to solicit and receive advice from his '*ulama*' prior to undertaking any momentous decision.<sup>69</sup>

The leading historical figure in the development of Zanzibar and the most important of the thirteen al-Bu Sa'idi *imams* was Sultan Syed Sa'id bin Sultan, known as "Sa'id the Great." He was the *Imam* of Muscat and Sultan of Oman and Zanzibar for 52 years, from 1804 until 1856. He came to power at the age of 16 following a successful murder plot against the regent, Badr bin Seif, who had become too friendly and accommodating to the Wahhabi.<sup>70</sup> There have been many biographies written about Sa'id. He is lionized by Western, Omani, and African biographers because of the great skill he demonstrated as a political and religious leader, military strategist, seafarer, and diplomat. For our purposes, he is important because he presided over the rise of Zanzibar as the central entrepot for the slave trade in East Africa. During his reign many Omanis migrated to the islands of the coast off East Africa because life there was better and more prosperous than life in Oman. This prosperity flowed directly from the profits gained in the slave-trade and in slave-produced goods.

During this period the trade in ivory, coir, coconuts, rice, and slaves boomed<sup>71</sup> During the monsoon season as many as one hundred dhows came into Zanzibar harbor from India and Arabia carrying cloth, iron, sugar, salted fish, earthenware, and dates.<sup>72</sup> Slaves were brought to Zanzibar after capture by slave raiding parties in the African interior and, in scenes made famous in Europe by the accounts of David Livingstone (who lived in Zanzibar), they were

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<sup>69</sup> See John C. Wilkinson, *The Imamate Tradition of Oman* (Cambridge: Cambridge University Press, 1987); Ahmed Hamoud Al-Maamiry, *Oman and Ibadhism* (New Delhi: Lancers Books, 1980); Ahmed Hamoud Al-Maamiry, *Oman and East Africa*, 3rd rev. ed. (New Delhi: Lancers Books, 1985).

<sup>70</sup> Coupland, *East Africa*, 108.

<sup>71</sup> Martin, *Zanzibar*, 28.

<sup>72</sup> *Ibid.*

brutally force-marched to the coast, carried across the Zanzibar Channel in small boats, and then sold in the public slave market in Zanzibar town. From there the purchasers, who were often dealers, arranged for their transportation across the Indian Ocean to markets in Cairo, Mecca, Muscat, Damascus, Baghdad, Bombay, and points east. A typical dhow could hold up to 150 souls, exclusive of the crew, all sitting up and packed tightly in rows from stem to stern.

Banaji, quoting an unpublished account in the Bombay Government Records, provides us with a “graphic description of the manner in which slaves were exposed for sale in the open markets at Zanzibar, where merchants from Cutch, Sind, Seinee and other parts of India flocked in great numbers to purchase and carry on a regular traffic in human beings.”

‘Slaves are brought to the market place early in the day. But the principal exhibition commences at about 3 or 4 o’clock in the afternoon.

‘They are ranged in a line composed of both sexes and all ages, beginning with the least and increasing to the rear, according to their sizes.

‘To set them off to the best possible advantage, their skins are cleaned and burnished with oil, their faces painted with red and white stripes; their woolly hair plastered and filled with yellow powder, esteemed amongst the poor creatures as a mark of beauty and elegance; their hands and feet were ornamented with rings and plasters, and round their loins is wrapped a new striped or plain coloured cloth.

‘At the end of the file stands the proprietor, and on each side two or three of his domestic slaves, armed as a guard.

‘Thus arranged the procession begins and passes through the market place and principal streets, the owner in a sort of song sounding the good qualities of his slaves and proclaiming the prices he had been offered for them.

‘When one of them strikes a spectator’s fancy, the line is halted, and an examination ensues, which for minuteness of detail is not equalled in any cattle market in Europe. The purchaser first ascertains that there are no defects in the faculties of speech or hearing; and takes the assurance of the seller that the Slave neither snores nor grinds his teeth in his sleep, which are deemed great objections. The mouth and teeth are inspected and afterwards every part of the body in succession, not excepting those parts, which a sense of decency in the most savage tribes conceals from view, and which the very slave so inspected would not expose without a blush which the lighter cheek of his future master could not display. After this examination he is made to run, and if there can be no defect in the limbs and no indication of any disease, the bargain is concluded.

‘At the close of the day these wretched beings are stripped of their decorations and sent to the houses of their respective purchasers. Women with infants hanging at their breasts and others feeble from age are seen thus marshalled and driven about the streets. Some groups had been so ill fed that their bodies appeared as if they would penetrate the skin.

‘Children of six years are sold for five or six dollars. The value of a prime slave was about 50, and that of a young girl about 60 dollars. Women with infants did not fetch so high a price as those without them.

‘The various tribes of slaves,’ concludes the author of this memorable document, ‘brought annually to Zanzibar for sale, and of which 10,000 are supposed to be sent annually to India, could not be accurately described.’<sup>73</sup>

At some point, probably in 1812, clove trees were introduced into Zanzibar as an agricultural product, and the local economy, as well as the slave sector of that economy, was transformed.<sup>74</sup> The Omani and, to a lesser extent, Hadrami Arab merchants and “Swahilis,”<sup>75</sup> established clove plantations and overnight they became quite wealthy. They used slave labor to operate the plantations and, within twenty years, Zanzibar was producing 75 per cent of the world’s cloves. This greatly increased the demand for the importation of slaves from the mainland. Now some were sold for re-export while others were retained to work the clove plantations. Esmond Bradley Martin and T.C.I. Ryan estimate that between 1770 and 1896, the East African slave trade exports from the mainland to Zanzibar and its dominions, as well as Arabia, Persia, and India totaled 1,257,100 souls.<sup>76</sup> Other historians, notably Abdul Sheriff, question this figure as exaggerated<sup>77</sup> but there is no doubt that 10,000 to 15,000 slaves were introduced to the market in Zanzibar each year during the boom years of the “clove mania,”

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<sup>73</sup> D.R. Banaji, *Slavery in British India* (Calcutta, 1933), 25, n.1, citing “Observations on the Slave-trade,” Letters from the Hon’ble the Court of Directors, Political Department, vol. 4, Bombay Record Department.

<sup>74</sup> Abdul Sheriff, *Slaves, Spices, and Ivory in Zanzibar* (London: James Currey, 1987), 48-63.

<sup>75</sup> “Swahilis” are persons of mixed race heritage, usually African and Arab.

<sup>76</sup> Esmond Bradley Martin and T.C.I. Ryan, “A Quantitative Assessment of the Arab Slave Trade of East Africa 1770-1896”, *Kenya Hist. Rev.* 73 (1976): 5.

<sup>77</sup> Abdul Sheriff, *Slaves, Spices, and Ivory*, 59-60.

which began in 1812 and lasted until about 1870.<sup>78</sup> This does not account for slaves used in the ivory trade.

Sa'id first visited Zanzibar in 1827 and he almost immediately decided to make it his permanent residence. By 1840 he had made Zanzibar the capital of the Sultanate of Oman. It thereafter became the Sultanate of Oman and Zanzibar.<sup>79</sup> The trade between Zanzibar and the Indian sub-continent was tremendously lucrative and unlike any commercial relations that had preceded it. Sugata Bose has referred to it as the "clove connection" but it was actually bigger than that.<sup>80</sup> He cites the well-known observations of Co. C.P. Rigby and Sir Bartle Frere, both of whom expressed astonishment at the Indian adaptability to the coast of East Africa and their penchant for making huge fortunes as intermediate capitalists and traders.<sup>81</sup> These fortunes were largely made in the nineteenth century slave-trade. As Bose points out, many of these capitalists were Muslims themselves. The Indian merchants and financiers essentially managed the economic aspects of the slave-trade for the Sultan of Zanzibar. Their position and their activity created a powerful node in the Indian Ocean Anglo-Islamic web and joined together three or perhaps four of the polities we have discussed: Khedival Egypt, the Omani Empire, including, after 1827, the Sultanate of Zanzibar, and the East India Company and Bombay and India Governments. These operations and their success were due, in no small way, to the vision and entrepreneurial energy of Sa'id.

Like the Egyptian Khedives, all the Sultans, beginning with Sa'id, were confronted with demands and diplomatic initiatives by the Western powers, principally the British, to abolish

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<sup>78</sup> Ibid., 59-72.

<sup>79</sup> Coupland, *East Africa*, 295-307.

<sup>80</sup> *A Hundred Horizons*, 97-108.

<sup>81</sup> Ibid., 100-101.

slavery and the slave-trade. Sa'id's relationship with the British defined the context of such confrontations for years after his death. The relationship was complex and multifaceted. This is evidenced by the gradual way in which diplomatic initiatives seeking the abolition of the slave-trade were proposed and implemented. All the Sultans of Oman and Zanzibar were important in understanding this complexity but probably the next most important for our purposes, after Sa'id, was Barghash, his son, who ruled in Zanzibar between 1870 and 1888 and took significant measures against the slave trade, albeit often, but not always, under British pressure. His most important act was the closing of the slave market in Zanzibar, in 1873. I will discuss these events when I consider abolitions

### **The Red Sea and Slavery in Egypt, Sudan, Ethiopia and Arabia**

David Ziskind observed that "slavery pulsed through the many veins of Egypt nurturing passions of life, trade and empire."<sup>82</sup> He further notes that the anti-slave trade policing efforts of the British and the Egyptian rulers became "less and less effective as they stretched south along the Nile and to the west across Sudan and east to the Red Sea."<sup>83</sup> This is an important observation. The demand for slaves emanating from the great metropolitan centers in Egypt drove slave-trading activities in the Indian Ocean and on the Red Sea and in the Persian Gulf for many years. Like India, the Egyptian polity was essentially a sub-empire, first of the Ottoman Empire and later of the British Empire after the British occupied Egypt in 1882. Omanis, Indian merchants, Persian Gulf slave traders, and Zanzibaris were all involved slave trading activities between their home ports and Egypt and its dependencies.

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<sup>82</sup> David Ziskind, *Emancipation Acts: Quintessential Labor Laws* (Litlaw Foundation, 1993), 234 (citing Reda Mowafi). I am indebted to Professor Michael Zimmer for sharing this reference with me.

<sup>83</sup> *Ibid.*, 235.



The Red Sea, an important estuary of the Indian Ocean, has served as a major conduit for the movement of slaves since before the time of the Bible. It is bordered by several communities that partook (and may still partake) in active slave-trading enterprises and it may properly be described as a sub-system of the larger Indian Ocean slave trading system. The uses of slave labor in the societies that border the Red Sea were, to some extent, more varied than on the coast of East Africa but the engine behind the slave-trade was primarily the same—production of goods for mass-market sale and the procurement of human subjects for household service, whether domestic or sexual or, in the case of Egypt and Sudan, for military service. There was very little military slavery and even less elite slavery outside of Egypt and Sudan, except perhaps around Mecca, some distance in from the shore. Like the East African trade, the trade on the Red Sea was multi-directional, with Africans from Ethiopia, Djibouti, and Kordofan, Dar Fur, and points west in the Sudan being transported across the sea for sale in the Arabian markets in Mecca and in Yemen, and Asians and sometimes Far Easterners who had been transported to these markets from the East being once again transported west for sale or resettlement in the major cities along the Nile—Khartoum, Aswan, Luxor, Cairo, and Alexandria. Some of these subjects were also destined to be re-exported across the Mediterranean to the Ottoman heartlands and even to Europe. Additionally, the Red Sea served as a conduit for East Africans being transported by boat up the coast from Somalia, Kenya, and Zanzibar to Port Sudan, Port Suez, Cairo and points north and west. The Red Sea also served as a viaduct for another unusual form of slave trafficking--unique to Islam--the movement of persons in bondage as part of the entourages of Muslims making the *Hajj*, the annual pilgrimage to Mecca. Although this traffic was small as compared to the commercial traffic, it was extremely

important as it tended to greatly swell the market in Mecca during pilgrimage season and its participants frequently settled in the region, as the manumission of slaves was a very common occurrence during the *Hajj*. It appears then, that we should identify the Red Sea as another important node in the web that connected the imperial and sub-imperial empires in the Indian Ocean World

The conveyances used to carry the slaves were boats very similar to ocean-going dhows used by the Arabs on the Indian Ocean although there is a much greater variety of such boat traffic on the Red Sea. African slaves were procured in ways very similar to the ways they were procured in East Africa—by kidnapping, slave raiding, terror, deceit, artifice, military capture, and sale. This was especially true in the Sudan and in areas of Ethiopia. In the early to mid-nineteenth century there were large slave markets in Sennar, El Obeid, and Shendi and caravans to Suakin, the principal African slave-trading port on the Red Sea at that time, were large, regular, and frequent.<sup>84</sup> On the Arab side slaves were imported and exported principally at Jedda.

Abolition on the Red Sea came very slowly, just as it did elsewhere in the Indian Ocean World. The first efforts were undertaken by the Egyptian Khedives, beginning with Sa'id and especially Isma'il, as the Ottomans, who controlled the Hijaz (Arab coast and lands encompassing Mecca and Medina) during most of the nineteenth century, had exempted it from their antislavery measures. The actions, attitudes, and policies of the Khedive Isma'il<sup>85</sup> are

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<sup>84</sup> See generally John Lewis Burkhart, *Travels in Nubia* (London: J. Murray, 1819) for excellent and unexaggerated descriptions of these caravans and the port of Suakin.

<sup>85</sup> The word "Khedive" is derived from the Persian word "kediv" and means "Viceroy" or "Lord." 8 THE OXFORD ENGLISH DICTIONARY 413 (J.A. Simpson & E.S.C. Weiner eds., 2d ed. 1989). Muhammad Ali had informally used the title but Isma'il apparently convinced the Abdul Aziz, the Ottoman Sultan, to make it official. He was the first of the

by far the most important in terms of any study of the abolition of slavery and the slave-trade in Egypt in the mid to late nineteenth century. Isma'il is an enigmatic and highly contested figure in modern Egyptian history; in many ways his impact is larger than the actual events that he participated in and many have found it difficult to accurately assess his importance. This is true for the legal and social history of slavery and its abolition as well as for other aspects of late nineteenth century Egyptian history. Perhaps the best way to assess Isma'il's role in this chronicle of events is to see the events through his eyes. Unlike his uncle, Sa'id, who preceded him, Isma'il had a grand design for Egypt. He imagined that Egypt would one day command a vast African empire and take its place at the same geopolitical table with the major European powers.<sup>86</sup> He also believed that the elimination of the slave-trade would help him to advance this vision for Egypt and Africa. He therefore consciously concluded that he needed a tangible and well enforced anti-slave trading policy to advance his designs for empire. I will discuss these policies in more detail when I discuss abolition in Egypt.

At the beginning of the nineteenth century there were at least seven principal pathways by which slaves entered Egypt. The annual caravan from the area south and west of Dar Fur was by far the most well traveled route and the one carrying the largest number of slaves, counted on an annual basis.<sup>87</sup> The Dar Fur caravan was, at the beginning of the century, "the greatest of all caravans reaching Egypt"<sup>88</sup> and its principal commodity was male and female black African

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dynasty of the family of Muhammad Ali to formally receive the title "Khedive" from the Ottoman Sultan, receiving it in 1867, and the title continued to be used by his successors until 1914.

<sup>86</sup> Lorne M. Kenny, "The Khedive Isma'il's Dream of Civilization and Progress I," *Muslim World*.(April 1965) and "The Khedive Isma'il's Dream of Civilization and Progress II," *Muslim World* (July 1965).

<sup>87</sup> Gabriel Baer, *Studies in the Social History of Modern Egypt* (Chicago: University of Chicago Press, 1969), 169.

<sup>88</sup> *Ibid.*

slaves. These slaves were either captured by raiders and sold to the caravan drivers along the way or sold to dealers in the markets of Dar Fur after being captured in the tribal wars that plagued Dar Fur during that time. Africans captured in these wars were displayed for sale in the market after deduction of one fifth of this human war booty for the Sultan of Dar Fur and one fifth for the chief of his army, in accordance with the Islamic law of war.<sup>89</sup> A great number of the caravans originating in Dar Fur traveled directly overland across the Nubian Desert from Dar Fur to Assiut, in Middle Egypt, via the Baris and Kharja oases, although a second route also opened up, running from Dar Fur to El Obeid in Kordofan and then up the Nile River Valley through either Dongola or Shendi and terminating either at Aswan or Esna in Upper Egypt.<sup>90</sup>

Both before and after the Civil War, Americans traveled to the Middle East, particularly to Egypt, and to Zanzibar, for a variety of reasons and in fairly significant numbers.<sup>91</sup> Ulysses S. Grant spent a number of years in Egypt after retiring from office, as did a number of former Union and Confederate Soldiers. Descriptions by Americans are important because they had first hand experience with Atlantic slavery. George William Curtis, an American and self described as an Egyptian “Howadji” (foreigner) provides us with the following description of the northward-bound slave boat traffic on the Nile River in the mid-nineteenth century:

The craft were of every kind. Huge lumbering country boats, freighted with filth and vermin, covered with crouching figures in blankets, or laden with grain; or there were boats curiously crowded, the little cabin windows overflowing with human blackness and semi-naked boys and girls, sitting in close rows upon the deck.

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<sup>89</sup> Ibid., 169.

<sup>90</sup> Ibid. See also Burckhardt, *Travels in Nubia*, 309-320, for discussion of the route through Sennaar and Shendi and the slave market at Shendi.

<sup>91</sup> citations

These are first class frigates of the Devil's navy. They are slave boats floating down from Dongola and Sennar[in Sudan]. The wind does not blow for them. They alone are not white with sails, and running merrily over the water, but they drift slowly, slowly with the weary beat of a few oars.

The little slaves stare at us with more wonder than we look at them. They are not pensive or silent. They smile and chat, and point at the Howadji and the novelties of the Nile very contentedly. Not one kneels and inquires if he is not a man and a brother, and the Venuses, 'carved in ebony,' seemed fully satisfied with their crisp, closely curling hair, smeared with castor oil. In Egypt and the East generally, slavery does not appear so sadly as elsewhere. The contrasts are not so vivid. It seems only an accident that one is master and the other slave. A reverse of relations would not appear strange, for the master is as ignorant and brutal as the servant.

Yet a group of disgusting figures lean and lounge upon the upper deck, or cabin roof. Nature, in justice to herself, has discharged humanity from their faces—only the human form remains—for there is nothing so revolting as a slave-driver with his booty bagged. In the chase, there may be excitement and danger, but the chase once successful, they sink into a torpidity of badness.<sup>92</sup>

There were flourishing slave markets all along the river and the caravan operators and dealers purchased and sold slaves at each of these markets as they traveled northward. The El Obeid caravans used the fabled "forty-days road," also a favorite caravan route for *hajjis* on their way to Mecca. The route began in Sudan and terminated at a small market town on the river called Daraw, between Aswan and Kom Ombo, south of Esna. The presence of pilgrims on the route, either returning from or traveling to the *hajj*, on the opposite side of the Red Sea, also helped to facilitate the buying and selling of slaves. It appears that the famous master slave dealer Zubayr Rahma, known to Egyptians as Zubayr Pasha, and his allies established this route and Professor Baer observed that from the 1850's onward most of the slaves on the Cairo market who came from Dar Fur were purchased and transported north from El Obeid,<sup>93</sup> most

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<sup>92</sup> George William Curtis, *Nile Notes of a Howadji* (New York: Harper & Brothers, 1851), 55-6.

<sup>93</sup> Baer, *Studies*, 169 n.53 (citing R. Gray, *A History of Southern Sudan 1839-1889* [London: Oxford University Press, 1961], 66-69 and consular documents).

often along the forty-days road. It should also be noted that a number of the slaves captured or purchased in Dar Fur were sold to Yemeni and Peninsula Arab buyers at Shendi and then diverted to Souakin, on the Sudanese Red Sea Coast, for transportation to the Arabian Peninsula, Yemen, and the Persian Gulf.<sup>94</sup>

The third route came through Sennaar, which is situated on the Blue Nile, southeast of Khartoum and due south of Shendi. The slaves on the Sennaar market were most often captured in raids in the Nuba Mountains and in Abyssinia, which were nearby. After sale at Sennaar, these slaves were caravanned north to Shendi and Berber and from there they would join the slave caravans coming from Kordofan, traveling north to Aswan and Esna along the forty-days road in the same fashion as the others.<sup>95</sup> There was a fourth route, not generally noted in the sources, involving slaves captured in southern Sudan, along the upper reaches of the White Nile, and sold at markets in Khartoum and then transported in caravans north to Dongola and Shendi, where they would join the other caravans. The fifth route involved slaves transported from the Bornu and Lake Chad area, west of Dar Fur. This route followed a caravan track across the Libyan Desert before turning east to travel by caravan along the northern fringe of the desert into Cairo.<sup>96</sup>

The sixth route involved the transportation of African slaves from Abyssinia, the Horn of Africa, and the East African coast. These captives were generally transported by boat from their original homeland across the Indian Ocean and the Red Sea and into the Middle East heartland

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<sup>94</sup> The descriptions of the “forty-days road” and other details are taken from a variety of sources, most particularly *Ibid.*, 169 (on the ‘Ababda) and Burckhardt, *Travels in Nubia*, 207-215, 305-327.

<sup>95</sup> *Ibid.*

<sup>96</sup> Baer, *Studies*, 170. At a frontier town called Murzuq some of the slaves were sold to dealers from Benghazi and Tripoli in Libya. They were then transported to those cities for settlement their or further transported across the Mediterranean to Turkey, Syria, or Persia. See also Humphrey J. Fisher, *Slavery in the History of Muslim Black Africa* (New York: New York University Press, 2001), 341.

through the ports of Massawa, Zayla, or Jeddah and ultimately arriving at Suez in Egypt for settlement in the Egyptian society.<sup>97</sup> This route was also used to facilitate the entry of slaves from the Far East, particularly Java, although these individuals were quite infrequently seen in the slave markets of the main cosmopolitan centers. Sometimes East African slaves were also transported by caravan over the desert from Jeddah to Suez or by boat through the Gulf of Suez.<sup>98</sup> The route was also used by pilgrims returning from the *hajj* and it was not uncommon for wealthy pilgrims to transport a number of slaves purchased in Mecca back to Cairo for sale or resettlement. Professor Baer notes that this route became the preferred route into Egypt for Sudanese slaves after the Khedive Isma'il and his government began to take measures against the slave-trade in Sudan.<sup>99</sup> Slaves entering the market in Cairo after reaching the city by one of the six routes I have described were sometimes re-exported to Istanbul or one of the other large Middle Eastern cities to the north and east of Cairo. In this way the Egyptian slave-trade connected with and was a part of the Ottoman slave-trade as well.

The seventh and last of the principal routes did not involve African slaves, although in some cases Africans were re-introduced into Egypt via this seventh route. The route involved the transportation of slaves across the Mediterranean, terminating at either one of the northern ports along the Egyptian Mediterranean coast or at the port of Bulaq in Cairo. The route primarily involved the importation of Circassian, Greek, Turkish, Russian, and Georgian slaves as well as others from assorted European, Indian-Persian, or Asian Steppe ethnic communities. These slaves were both men and women, although toward the end of the

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<sup>97</sup> Baer, *Studies*, 171.

<sup>98</sup> *Ibid.*

<sup>99</sup> *Ibid.*

nineteenth century, particularly after the demand for boys for military service declined, the bulk of the traffic in slaves traveling along this route were Circassian women destined for the harems of the elite in Cairo and Alexandria.<sup>100</sup> In the early part of the century a number of Africans, particularly wealthy African eunuchs who had resettled in Cairo after service in Istanbul, as well as a small number of Africans purchased by Egyptian buyers in Istanbul, also entered Egypt along this route.<sup>101</sup> Ottoman slave traders controlled all of this traffic. With regard to the pathways for transportation of slaves into Egypt, it is immediately apparent how at least four of these pathways depended for their sustenance on the Indian Ocean empires and sub-empires. This is what made the Red Sea a node in this complex web.

### **The Persian Gulf**

The Slave Trade in the Persian Gulf, another estuary of the Indian Ocean was technologically quite similar to that on the Red Sea. There was a steady and very frequent internecine traffic between and among the major ports on the Gulf, particularly Basra, in southern Iraq, Kuwait, Bahrein, Sharja, Abu Dhabi, and Muscat, Oman, on the Arab side of the Gulf and Bandar e-Sharpar, Bandar Abbas, and Bushire on the Persian side. There had also been, since time immemorial, a vigorous and robust trade between Persian Gulf ports and Kutch and Gujarat, in India, and this trade greatly facilitated traffic in slaves between these two areas in the nineteenth century.

Traders in the Gulf used boats that were quite similar to those used on the ocean, although, like the Red Sea, they might be smaller versions. The major differences between the

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<sup>100</sup> Baer, *Studies*, 162.

<sup>101</sup> Jane Hathaway, "Egypt in the Seventeenth Century," *Cambridge History of Egypt*, vol. 1 (Cambridge: Cambridge University Press, 1998), 34, 53-56.



Red Sea and the Persian Gulf were two: first, the Gulf coastline, on both sides, was much more hospitable to landings and off-loading and on-loading from small and even medium sized boats in a variety of places. Second, the political economy of trading in general in the Gulf was much more local and dependent upon the vicissitudes of relations among the tribes in the region, including some who had the penchant for piracy.

The slave-trade in this area was particularly nefarious, deadly and difficult to stamp out. This was because of the vigorousness with which the local shaykhs, described in the Zanzibar archives as “the Northern Arabs,” prosecuted the trade and also because of the confusing nature of the overlapping jurisdictions in the Persian Gulf and the reticence of the Indian Navy, operating under the orders of the East India Company and the Government of Bombay, to police the area. For example, in one instance the Government of Bombay reported that 1,780 slaves imported from Zanzibar and bound for various ports in the region were captured on board 13 Arab vessels from Ras-al-Khyma, Ajman, Sharja, Dubai [Debaye] and Abu Dhabi between January 1, 1845 and November

27, 1845.<sup>102</sup> The letter asserts that, of the 1780 slaves captured, only 4 were purchased in Zanzibar. All the others were kidnapped and forcibly transported across the ocean and into the Gulf. It also describes how the “Northern Arabs” kidnapped a free, Muslim Somali woman (described in Arabic as *al hoor*, used to describe a free Muslim) while in Zanzibar and the efforts of both the Sultan of Oman (Syed Sa’id) and the British officials to restore her to her residence

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<sup>102</sup> Letter No. 131 of 1845 from the Government of Bombay to the Hon. the Court of Directors of the East India Company, dated November 27, 1845 (without attachments), [FO 84/662], reprinted in A.L.P. Burdett, ed., *The Slave Trade into Arabia* (Chippenham, U.K.: Archive Editions, 2006) I, 511.

in Zanzibar.<sup>103</sup> Other documents, including references in the treaties between the British and Sultan Sa'id, show that the kidnapping of free Muslims, particularly the Somali, was a constant problem.

Unlike Egypt, Zanzibar, Oman, or Sulu, there was no one Sultan or Shaykh in the Persian Gulf that we could point to as an important figure in the web that we have described. It is clear, nonetheless, that the Persian Gulf functioned as an important node in this web, serving as both a destination and a transit point for slaves going east and west. As is established in the archival sources, the commercial importance of the Persian Gulf zone was tremendous, both for India and for Egypt and Europe.<sup>104</sup>

### **The Sulu Empire**

The Sulu Archipelago is just one of several locations in Southeast Asia that played an important role in the development of the web I have described. Islam was introduced to the Sulu Archipelago in the fifteenth century. The region consisted of several ethnic groups. The Taosug, the elite majority ethnic group in the Sulu region created a Sultanate empire, centered in Jolo, which soon ruled over the other minority groups. The Sulu had traded with the Chinese for porcelain.<sup>105</sup> There also existed trading between Sulu and the Buginese from Southern Celebes. The Bugis traders would bring gun powder taken from the Dutch colony of Batavia on Java, and the Sulu would trade Filipino slaves, who were later returned to Java and sold by the Bugis.<sup>106</sup> After 1768, the Sulu Empire became a dominant slave trading and slave raiding center

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<sup>103</sup> *Slave Trade*, 513-514.

<sup>104</sup> See the vast accountings of slave-trade commerce and non-slave-trade commerce compiled from observations made by consular officials in *The Slave Trade into Arabia* and *The Persian Gulf Precis*.

<sup>105</sup> Warren, *The Sulu Zone*, 5. Records of Sulu trade with the Chinese date back to the Yuan dynasty between 1278-1368.

<sup>106</sup> *Ibid.*, 10-14.

in the Eastern Indian Ocean World. The British East India Company established a trading post within the Sulu trading zone, and began supplying the Sulu with opium and munitions.<sup>107</sup> The Sulu traders had access to “bird’s nests, wax, camphor, mother of pearl, tortoise shell,” which the British could use in their trade with the Chinese in return for tea.<sup>108</sup> The sudden demand for these goods by the British created a need for a greater internal labor force in the Sulu region for the procurement of resources. Slave raiding campaigns were conducted with the regularity and frequency of the Monsoon throughout the nearby coastal towns. By 1830, the slave population in the Sulu region exceeded that of the free.<sup>109</sup>

In addition to the slave raids, debt bondage, like in India, was also a common means for becoming a slave in Sulu. Slaves in Sulu were inserted into the economic system as sailors and traders, as well as agricultural field workers, concubines, artisans, musicians, bureaucrats, scribes, and even healers.<sup>110</sup> In 1878 the Sultan Jamal ul-Azam leased his dominions on the northeast coast of Borneo to two Austro-Hungarian brothers based in London.<sup>111</sup> They had no idea what they had bargained for and the British government eventually granted a Royal Charter to a group of private entrepreneurs, in an act that was quite reminiscent of the famous charter granted to the United Company of Merchants Trading in East India in 1600.<sup>112</sup> The commercial potential of the area began to develop and the slave trading and slave raiding of the Sulu played an important role. The Sulu effectively facilitated the opening of the China Trade for the West and the trading patterns that the Sulu Sultanate established with Bengal,

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<sup>107</sup> *Ibid.*, 19.

<sup>108</sup> *Ibid.*

<sup>109</sup> *Ibid.*, 200.

<sup>110</sup> *Ibid.*, 220-227.

<sup>111</sup> *Ibid.*, 134.

<sup>112</sup> *Ibid.*, 135.

Manila, Macao, and Canton catapulted it into the world economic system.<sup>113</sup> The Sulu penchant for slave trading was fundamental to this economic transformation and clearly established it as an eastern node in the web that I have described. As with the other nodes, slave trading and slavery were central to the vitality and economic success of the Sulu Sultanate.<sup>114</sup>

### **Plural Conceptions of Slavery**

There were broad variations in conceptions of slavery, even among Muslims, in the Indian Ocean World. Orlando Patterson's broad universalistic definition is useful but in many respects it does not adequately account for the variety of conditions and relationships that existed throughout the region.<sup>115</sup> There is no doubt that the slavery that one would find on the East African coast and in the dhows that traversed the western Indian Ocean in the nineteenth century was of the most brutal, violent, and dishonoring type of slavery known in the history of the world and would certainly fit Professor Patterson's definition. East Africans were kidnapped, force-marched, and often subjected to brutal and life-threatening conditions by slave traders transporting them to the entrepôts in the dominions of the Sultan of Zanzibar and in the Persian Gulf, Oman, and along the slave routes that traversed the Sudan, Upper Egypt, and the Red Sea. The lore of the region is replete with descriptions of the inhumane, immoral, and illegal actions of slave dealers and their henchmen. In some cases the conditions the slaves endured would improve once they arrived in the Arab cosmopolis, but this again was not always the case. In Cairo, a slave might be sold and re-sold ten or fifteen times before being settled in a household or other work station. It is this aspect of the history that the modern Muslim mind

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<sup>113</sup> *Ibid.*, 143.

<sup>114</sup> [need to do more with this]

<sup>115</sup> Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, Mass.: Harvard University Press, 1982).

appears to be unaware of. It is this aspect that should be taught in schools and made the subject of public history projects in the Muslim world.

Even given that horrific history of brutality and death, the historians interested in telling the story for modern Muslims would have to acknowledge that the situation was somewhat different in India, in the Malaysian and Indonesian Archipelagos, and even in parts of the Arab and Persian worlds. James Francis Warren, in describing the occupations and social mobility of slaves in the Sulu Sultanate, describes the *Banyaga* slaves as individuals recruited by the Sultan as office-holders enjoying “considerable power and prestige.”<sup>116</sup> This kind of description might fit a number of personages in the Middle East and in the Indian Ocean Worlds and careful analysis is required if one wishes to be accurate. We know that elsewhere in the Sulu Empire conditions were horrific, with fugitive slaves demanding to be thrown into the sea rather than to be returned to Zamboanga, a slaving outpost with an absolutely nightmarish reputation among the Sulu slaves.<sup>117</sup> Yet elsewhere in the same entity, slaves participated in the most serious affairs of state, served as doctors, accountants, and specialists, or they might achieve high status as concubines.<sup>118</sup> This set of affairs establishes that there cannot be one definition of slavery for purposes of analysis of events in the Indian Ocean World. There were multiple definitions and, more importantly, multiple conceptions of what it meant to be a slave.

### **Plural Abolitions**

The history of slavery and abolition in the Indian Ocean World and an understanding of the role of Islamic law in that history show that historians have been struggling under an

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<sup>116</sup> James Francis Warren, *The Sulu Zone: 1768-1898: The Dynamics of External Trade, Slavery, and Ethnicity in the Transformation of a Southeast Asian Maritime State* (Singapore: Singapore University Press, 1981), 223.

<sup>117</sup> *Sulu Zone*, 235.

<sup>118</sup> *Ibid.*, 226-7.

illusion of a universal conception of slavery. If this is in fact true, then there may be a similar illusion with respect to abolition as well. This illusion, as it relates to law, is best illustrated by the rampant illegality of the Muslim slave-trade and the silence of the *'ulama* in the face of that illegality. It is also illustrated by evidence that there may be changing conceptions of abolition over time. I will now explore the contours of these illusions.

The world encountered by the East India Company merchants when they arrived in India underwent a profound change. This change brought with it, and was largely brought about by, the introduction of the telegraph, the steamship, the rapid-fire weapon, liberal education, and increasingly efficient modes of production in the factories and the fields. Astoundingly, what did not change was the milieu of slave-holding and slave-trading that had existed in India and in the Indian Ocean World for thousands of years. This inertia occurred despite the world-wide declaration of the British imperium that slavery and slave-trading would not be tolerated anywhere in its dominions and despite well-meaning efforts by many British subjects and sympathetic non-British persons to bring about the moral and philosophical change in human attitudes desired by the abolitionists. Such change did occur in the Atlantic World, albeit slowly in many places like Jamaica, Cuba, and Brazil. But even that kind of change never came to the Indian Ocean World. There were no great slave revolts,<sup>119</sup> no Toussaint L'Overtures or Frederick Douglasses or William Lloyd Garrisons or John Browns or Simon Bolivars, rallying the faithful to rise up against the yoke of the slave-masters. This fact is made plain by the sheer size and extensive nature of the slave-holding regimes and slave-trading schemes that flourished after

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<sup>119</sup> The last great slave revolt in the Middle East occurred in 9<sup>th</sup> century Iraq when Black slaves working the marshes around Basra overthrew their overseers and established a short lived polity in the area. See Alexandre Popovic, *The Revolt of African Slaves in Iraq in the 3<sup>rd</sup>/9<sup>th</sup> Century* (Princeton: Markus Wiener, 1998).

the adoption of the U.K. Emancipation Act in 1833. The Duke of Wellington's pronouncements were heard loud and clear by many, including many British entrepreneurs, all across the Indian Ocean.<sup>120</sup> The entrepreneurs in India and perhaps their masters in London then set about creating a new world, one that did not really exist, but one that would provide justification for the continued traffic and sale of human beings, particularly women and children, even though the law on the books suggested otherwise. This world derived its validity from these important facts: (1) the widely disseminated impression that slavery had in fact (twice) been abolished in India and in many of the territories controlled by the East India Company and, later, the British Crown Colony, when in fact it had never been abolished; (2) the continued reliance on an orientalist perspective with respect to events in India; and (3) the web-like structure of the Indian sub-empire and the pervasive effect of a mercantilist inheritance and ethos that dominated and perpetuated this structure.<sup>121</sup>

In each of the locales that I have considered, abolition, and the relationship of Muslim personages to the problem of abolition, was profoundly different. In Egypt, the Khedive Isma'il

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<sup>120</sup> Most historians have assumed that the U.K. Emancipation Act of 1833 abolished slavery in territories under British dominion in the Indian Ocean as well as in the Atlantic possessions. It did not. Clause LXIV specifically exempted territories in the possession of the East India Company, as well as Ceylon and the Island of St. Helena. 3 & 4 William IV, Cap 73, Clause LXIV. The clause was inserted at the behest of the Duke of Wellington, who famously remarked that every Muslim soldier in India desired to retain a concubine in his hut and that disturbing that state of affairs would greatly injure British sovereignty in the territory. This had the effect of allowing slavery and slave trading to continue for many years in India as well as in the Persian Gulf, along the shores of East Africa, and in many parts of Southeast Asia. The Indian government took another ten years before it began the process of adopting a series of legislative measures seeking to ameliorate slavery on the subcontinent. The first of these, Act V of 1843, delegatized the status of slavery, withdrawing all official and juridical support for the institution. According to the statute, slave owners could not use the courts to enforce their claims against the persons of slaves and runaways could not be forcibly returned to their owners. The statute also allowed slaves and their heirs and representatives to seek redress for injuries and homicide on the same footing as free persons. The statute was largely unsuccessful, for a variety reasons. Indrani Chatterjee has pointed out that magistrates remained reluctant to allow fugitive slaves to go free and were similarly reluctant to prosecute free persons who had engaged in some form of brutality against the slaves. *Gender, Slavery and Law in Colonial India*, 176-224. Child slavery was particularly problematic.

<sup>121</sup> Metcalf, *Imperial Connections*.

embarked upon a concerted and public campaign to bring slavery and slave trading to an end in Egypt, The Sudan, and in the Red Sea. These efforts have been well chronicled. The argument that Isma'il only constructed the campaign against slavery to appease the Europeans is belied by the fact that he was an enlightened social reformer in a number of other areas. He opposed the use of *corvée* labor in the building of the Suez Canal, he closed gambling houses, sought to combat prostitution, implemented a number of prison reform measures, and advanced the cause for the emancipation of women by insisting on female education and the relaxation of the rigid unwritten codes of sex segregation in Egyptian society.<sup>122</sup>

His efforts to eliminate slave trading and slavery in Egypt and the Sudan failed. Against a legacy of bankruptcy and excitement over the opening of the “passage to India” through the Suez Canal, Egypt eventually entered into two anti-slave-trade conventions with the British. The first, signed at Alexandria in 1877, was somewhat successful but contained many loopholes. The second, entered into in 1895, was more vigorously enforced and succeeded in bringing to an end, at least for a time, the traffic across the Red Sea. Neither convention was very successful in stamping out the traffic in Circassian women from the Caucasus imported as concubines but this is beyond the scope of my chronicle.

Abolition, in the strict juridical sense, never really happened in Egypt. The Egyptian government never enacted a domestic law abolishing slavery.<sup>123</sup> Yet slavery effectively “vanished” from Egypt in the late nineteenth and early twentieth century. In many other Muslim communities, even those that enacted stringent domestic anti-slavery laws or had such

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<sup>122</sup> *Isma'il's Dream*, 217.

<sup>123</sup> The first juridical act making slavery illegal in Egypt occurred with the adoption of the 1923 Egyptian Constitution, which guaranteed the liberty of all individuals in Egypt. Art. 4, Constitution of Egypt (Royal Rescript No. 42 of April 30, 1923) in Amos J. Peaslee, *Constitutions of Nations* (1950) 722.



laws imposed upon them by European colonial governments, there was stout resistance to efforts to eliminate slavery and the slave-trade and these practices continued well into the twentieth century. How and why did this occur?

There were certainly tangible events in the late nineteenth century that spawned the disappearance of slavery in Egypt, the most prominent being the legal and diplomatic efforts by the British and by the Khedival governments aimed at eliminating the slave trade, significant numbers of voluntary manumissions that began to occur in Egypt in the late 1880's and the 1890's, and a change in the attitude toward slavery that occurred, among the intelligentsia, among the Turco-Circassian elites, among the *fellahin*, and among the city-dwelling common Egyptians in and about that time.<sup>124</sup> This change in attitude is the key to understanding the abolition or, more precisely, the disappearance, of slavery in Egypt.<sup>125</sup> While the change in Egyptian attitudes was not completely unique, it was very unusual in the Muslim world because it happened quite suddenly and it cut across all segments of the society, rapidly becoming what both Islamic legal scholars and John Rawls would describe as a consensus of opinion, or *ijma'* in the parlance of Islamic Jurisprudence. Indeed it could be described as a Rawlsian overlapping consensus because virtually everyone in the late 19<sup>th</sup> century Egyptian community, no matter

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<sup>124</sup> Beachey argues that the numbers of voluntary manumissions were never very high and he is probably right, given the large numbers of slaves possessed by owners and the low numbers of manumissions reported by the Bureaux set up by the Egyptian government for that purpose. *The Slave Trade of Eastern Africa*, 143.

<sup>125</sup> The change in attitude that I describe was first identified by Gabriel Baer in several of his articles and monographs on slavery and the slave-trade in Egypt. See, e.g., Baer, *Slavery*, 441; Baer, *Social Change*, 153; Baer, *Studies in the Social History*, 187-89.

what their political stripe or economic status or religious calling, concluded that slavery was reprehensible and rightfully to be condemned and eliminated from all human relationships.<sup>126</sup>

This consensus was so powerful that there was actually no need for a written law. The practice just stopped. It might be argued that this conclusion naturally followed from revived and reinterpreted conceptions of human equality and piety under the classical or perhaps a modernist version of Islamic law. It is important to note that Muhammad 'Abduh, an important modernist Islamic thinker, and his student, Muhammad Rashid Rida, a great Islamic utilitarian in his own right, both announced that Islamic law was compatible with the secular abolition of slavery. Rida, in his work "The Muhammadan Revelation," argued further that one of the purposes of the revelation of the Qur'an was the elimination or "disappearance" of slavery. One might also argue that the emergence of a nationalist view of relationships among Egyptians, encouraging a newly formed national unity and resistance to imperialism and colonialism, was inconsistent with the idea of slavery and support for the slave-trade, thus requiring their elimination. A third viewpoint might assert that it was necessary for Egypt to abandon its legacy of slavery and to end the slave-trade so that it could join the modern world, a world led by the nations that defined their identity and their relations with each other in accordance with the universalist precepts of the Enlightenment. It is also arguable that British diplomatic, economic, and military coercive policies and measures offered Egyptians little other choice and it was just not in their interest to continue owning and trading in slaves.

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<sup>126</sup> See John Rawls, "The Idea of an Overlapping Consensus," in *Collected Papers* 421 (Samuel Freeman ed., 1999) (first published 7 OXFORD J. OF LEGAL STUD. 1 (1987)). Rawls posited that the political conception of justice embodied in such a consensus requires a democratically functioning system in order to be successful. Admittedly, this was absent in Egypt at this time (and it is still absent, over one hundred years later) but it may be that the Islamic values we have identified, together with the strong and deep pluralism of Egyptian society, supplied substitutes for that democratic backdrop.

All of these viewpoints show that there is a basis for a broad, overlapping anti-slavery consensus because of the unique ethos that emerged in late 19<sup>th</sup> century Egyptian society. The roots for this ethos are to be found in the unique socio-legal-historical legacy that characterizes Egypt. This legacy spawned a great unreplicable diversity in the cosmopolitan centers of the country. It drew sustenance from a unique history of elite slavery that contained within it a powerful ethic of emancipation. Emancipation and the blurring of distinctions between slave and free were thus strong components of the Egyptian cultural memory at the end of the nineteenth century.

Abolition in Zanzibar was in some ways similar but in other ways it varied from the Egyptian example. The bulk of the major abolition decrees, other than the 1890 and 1897 decrees<sup>127</sup>, were enacted by or signed by Sultan Barghash, the son of Sa'id the Great. It was on his watch that the bulk of the abolition work was accomplished. During his reign, Barghash had a stormy, on-again, off-again relationship with many of his subjects, including the '*ulama*'. There were no '*ulama*' in Zanzibar of the stature of Muhammad 'Abduh or Rashid Rida in Egypt but it is actually a little easier to discern the opinion of the Zanzibari '*ulama*' on the question of the legality of the slave trade during this time, albeit with the help of non-Islamic sources.<sup>128</sup>

Interestingly, the events in Egypt were having an impact in Zanzibar. In a widely circulated 1882 essay in the *Anti-Slavery Reporter* found by this author in the Zanzibar Archives,

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<sup>127</sup> These decrees were issued by the Sultan of Zanzibar but were effectively drafted and promulgated by the British, who had by that time established a protectorate government in Zanzibar.

<sup>128</sup> One Zanzibari '*alim*' who might be ranked with 'Abduh and Rida was the famous scholar Ahmed bin Sumayt. Sumayt came from a distinguished Hadrami family that had settled in the Comoros Islands and he eventually migrated to Zanzibar where he occupied the position of Chief Judge for many years, until his death in 1925. There is some evidence that Sumayt traveled to Egypt and met with 'Abduh at the time that 'Abduh occupied a similar position in Egypt. More research might reveal the substance of their conversations and correspondence. On Sumayt's travel to Egypt, see Anne K. Bang, *Sufis and Scholars of the Sea: Family Networks in East Africa: 1860-1925* (London, New York: RoutledgeCurzon, 2003).

John Scott, then a Judge of the Egyptian Court of Appeal, gave his opinion as to whether the Shaykhs of Islam, who were consulted in 1877 about whether the Shari'a sanctioned the slave trade as it was then practiced would have approved of it. In strident terms he answered that they opined that the Sharia did not sanction the slave trade and that Muhammad would be horrified if he witnessed the conduct that the Muslims were engaged in.<sup>129</sup>

One of the leading advisors to Sultan Barghash during this time was Sheikh Abdulaziz bin Abdul-Ghany al Amawy, a student of the eminent Sheikh Muhyiddin. Sheikh Abdulaziz was apparently a child prodigy and, at the age of sixteen, he was appointed to a judgeship in Kilwa by Sultan Sa'id. He served in Kilwa and then in Zanzibar for over 50 years. He was an eminent legal scholar and a well known speaker and writer of books and pamphlets. These books apparently only exist in fragments in Zanzibar today. The most important of his books, a comprehensive history of Zanzibar commissioned by Sultan Barghash, has been lost, although there are persistent rumors that it remains in the hands of the one of the rural Sheikhs.

In the Zanzibar archives, there are also letters to Arthur Hardinge, the British Consul in Zanzibar in 1898, indicating that the Khedival government of Egypt requested copies of all Arabic manuscripts printed at Zanzibar under the auspices of Sultan Barghash, including books by Sheikh Abdulaziz. Whether his work will be found in the archival sources in Egypt depends on further research. What is important to note here is that Barghash, during the time that he was under immense pressure to end the slave trade and slavery in Zanzibar, dismissed and re-commissioned Abdulaziz several times and even imprisoned him on one occasion because he

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<sup>129</sup> See verbatim extract in *The Slave Trade of Eastern Africa: A Collection of Documents* ed. R.W. Beachey (London: Collings, 1976) 33, taken from *The Anti-Slavery Reporter*, Vol. II, Fourth Series, May 1882.

refused to change his opinion on a point of law. Sheikh Abdulaziz was a true *mujtahid* in the finest tradition of Islamic jurisprudence.

J. P. Farker, later the Pemba Slavery Commissioner, reported about the mission of Sir Bartle Frere, commissioned by the British government to obtain a treaty from Barghash closing the slave market in Zanzibar. Barghash had adamantly refused to do so, telling Frere that the “Chief Arabs” had threatened revolt if he signed the treaty. Kirk, the British Consul, was distressed but, according to Farker, instead of approaching Barghash directly (even though he had an excellent relationship with him), he approached Sheikh Adulaziz seeking his influence. Farker indicates that Sheikh Abdulaziz “consulted the stars” and then advised Barghash that he must sign the treaty to avoid “dreadful things.” The end result was that Barghash signed the treaty, at Sheikh Abdulaziz’s insistence and in spite of the threats from the Arabs.<sup>130</sup>

The treaty was not as effective as everyone had hoped and an illegal slave-trade between the mainland and Zanzibar continued for at least another decade. Further, like in India and in Egypt, the treaty did not alter the legality of slave status on the island. Eventually, under subsequent decrees of the Sultans, slaves had to voluntarily seek manumission; there was no general abolition until 1909. There were at least eight more anti-slavery and anti-slave-trade decrees issued by Barghash and his successors between 1873 and 1890.

The culminating document, the August 1, 1890 Proclamation of Sultan Ali bin Sa’id, sought to finally end all slave traffic in the dominions of the Sultan of Zanzibar. At the same time, the decree reconfirms the lawful status of slavery, although it does contain provisions

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<sup>130</sup> Report of J.P. Farker, *The Working of the Decree for the Abolition of the Status of Slavery in Pemba 2-4* (Zanzibar Archives, AC 3/10).

that would encourage the gradual ending of slavery in the Sultanate. A number of these provisions were based upon precepts of Islamic law. It is worthwhile to excerpt a number of its important provisions here.

After reconfirming all former decrees and ordinances made by the Sultan of Zanzibar on the topic of slavery, the August 1, 1890 decree provided that:

2. . . . all slaves lawfully possessed on this date by our subjects shall remain with their owners as at present. Their status shall remain unchanged.
3. We absolutely prohibit from this date all exchange, sale, or purchase of slaves, domestic or otherwise. There shall be no more traffic whatever in slaves of any description . . . .Any Arab or other of our subjects hereafter found exchanging, purchasing, obtaining or selling domestic or other slaves shall be liable under our orders to severe punishment, to deportation, and the forfeiture of all his slaves. Any house in which traffic of any kind in any description of slaves may take place shall be forfeited.
4. Slaves may be inherited at the death of their owner only by the lawful children of the deceased. If the owner leaves no such children, his slaves shall, *ipso facto*, become free on the death of their owner.
5. Any Arab or other of our subjects who shall habitually ill-treat his slave, or shall be found in possession of new slaves, shall be liable under our orders to severe punishment, and in flagrant cases of cruelty to the forfeiture of all his slaves.
6. Such of our subjects as may marry persons subject to British jurisdiction, as well as the issue of all such marriages, are hereby disabled from holding slaves, and all slaves of such of our subjects as are already so married are now declared to be free.
7. All our subjects who, once slaves, have been freed by British authority, or who have long since been freed by persons subject to British jurisdiction, are hereby disabled from owning slaves, and all slaves of such persons are now declared to be free.  
All slaves who, after the date of this Decree, may lawfully obtain their freedom are for ever disqualified from holding slaves, under pain of severe punishment.

8. Every slave shall be entitled as a right at any time henceforth to purchase his freedom at a just and reasonable tariff, to be fixed by ourselves and our Arab subjects. The purchase-money, on our order, shall be paid by the slave to his owner before a Kadi [an Islamic judge], who shall at once furnish the slave with a paper of freedom, and such freed slaves shall receive our special protection against ill-treatment. This protection shall also be specially extended to all slaves who may gain their freedom under any of the provisions of this Decree.<sup>131</sup>

It is said that the Sultan “had second thoughts” about certain aspects of this decree and, fearing that the decree might encourage slaves to run-away from their owners, that same month he issued two clarifying decrees announcing that run-away slaves would be punished and that crimes by slaves would be punished in the same manner as under the previous law.<sup>132</sup>

The 1897 decree, described by Beachey as a “landmark,” provided that the courts should decline to enforce any alleged rights over the body, service, or property of any person on the ground that such person was a slave. The decree also enacted a scheme of compensation for slave owners. In a justificatory paragraph preceding the salient provisions of this decree, the Sultan specifically relied upon principles of Islam, declaring that:

[T]he present system of slavery deters free labourers from coming to Our islands to take the place of those who have from death or other causes, disappeared, to the detriment of agriculture and of Our subjects, who are thus driven to borrow money at high interest against the Law of Islam and their own welfare, both of which are the objects of Our deepest solicitude.

And whereas the Apostle Mahomed (may God grant him blessings and peace!) has set before us as most praiseworthy the liberation of slaves, and We are Ourselves desirous to follow his precepts, and of encouraging the introduction of free labour.<sup>133</sup>

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<sup>131</sup> *A Collection of Documents*, 123-24.

<sup>132</sup> *Ibid.*, 124-25.

<sup>133</sup> *Ibid.*, 125.

The intendment of this decree, signed by Sultan Hamoud bin Muhammad bin Sa'id, was to end the status of slavery in Zanzibar and Pemba. For a number of reasons, it did not accomplish that purpose. Firstly, it did not enact an abolition of the servile status. Like the 1895 Anglo-Egyptian convention and the associated Khedival decrees in Egypt, it left the responsibility of claiming emancipation with the slave.<sup>134</sup> If the slave declined, for whatever reason, to seek emancipation, he or she would remain in the servile state, even though the owner could no longer legally compel obedience. Secondly, the decree did not affect the legal position of the female concubines. They were not entitled to seek emancipation, except in cases of cruelty, which had to be alleged and proven in open court.<sup>135</sup> In Zanzibar, unlike in Egypt, the institution did not suddenly disappear.

Even though the institution certainly did not “disappear” after the promulgation of the decree, the number of slaves did decline significantly after enactment. According to Beachey, there were 100,000 slaves in Zanzibar and Pemba at the time of the enactment of the decree in 1897. He asserts that there were still 53,000 remaining in slavery at the end of 1901. Although Beachey does not give a source for his numbers, they appear to be roughly accurate given comparison with other estimates. Esmond Bradley Martin, for example, relying on a special report and British consular estimates, asserts that there were 40, 500 slaves on Pemba in 1897.<sup>136</sup> If this were so then there would have been at least 60,000 slaves on Zanzibar Island,

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<sup>134</sup> Ibid., 127.

<sup>135</sup> Ibid.

<sup>136</sup> *Zanzibar*, 45 (relying, at n.48, on *Report on the Island of Pemba for the year 1900*, 12, found in the Zanzibar Archives and, at n.49, a British Government report entitled *Report for the Year 1903 on the Trade and Commerce of Zanzibar and Pemba* (London, 1904), British Government Diplomatic and Consular Reports, No. 3263, at 14-15).



and probably more, given the population patterns of the two islands.<sup>137</sup> Of course, numbers taken from British consular sources should be viewed critically, as some of these observers tended to exaggerate them so as to encourage an aggressive anti-slavery response from the Foreign Office. Eventually, over the next few decades, the institution of slavery in Zanzibar disappeared, although not as suddenly as it did in Egypt.

The chronicles with respect to abolition in the Persian Gulf and in India present starkly different pictures. First India: Fifty years after the enactment of Act V of 1843, and Indian Government measure enacted for the purpose of “delegalizing” slavery in India, it appears that, in preparation for advancing the government’s position on the measures to be taken with respect to the British Protectorate of Zanzibar “for the gradual extinction of slavery”, the Marquis of Salisbury asked about the experience in India on the adoption of Act V and whether a similar act ought to be promulgated for Zanzibar. [We know that a similar statute was in fact promulgated by the Sultan.] He wanted to know whether there were any despatches from the government of the day that could be found “authorizing or commenting upon the act in question” and giving its views on the question of the payment of compensation and whether slavery was abolished in the natives states and what were the circumstances attending such abolition.<sup>138</sup>

The diplomat in the Indian Government charged with this task drafted an extensive reply. The reply admits that Act V of 1843 was difficult to apply in the “native states” and that

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<sup>137</sup> Professor Abdul Sheriff’s figures suggest that in the mid-19<sup>th</sup> century the slave population on Zanzibar island was roughly three times that on Pemba. *Slaves and Spices*, 229-30. Martin and Ryan estimate the slave population in Zanzibar and Pemba in 1895 to be 146,000 out of a population of 208,700. *A Quantitative Assessment*, 81 Table 5.

<sup>138</sup>“Slavery in India.” British Library, India Office Records; Public and Judicial Departmental Papers: Annual Files—ref. IOR/L/PJ/6/412 File 66.

traffic in slaves between the “native states” and Bombay continued to be a problem up to the time of the drafting of the report. It is also instructive that the initial hand-drafted reply was considerably more strident than the final version. The writer notes

“...it is certain that slaves are still purchased and imported into India [**originally he wrote, after “purchased...” “in the Bombay market”; this is crossed out and the words “and imported into India.” were substituted.**]” He took note that “in 1882 an official of the Bhopal state was convicted and sentenced under S. 370 of the Indian Penal Code,” and that, “on several occasions” colleagues “have learnt that slave girls are kept in the establishments of Muscat refugees or other Mohamedan residents of Bombay.”

He further notes that Sir Henry Maine, in April 1869, “pointed out that slave holding though rendered difficult by English statutes is not per se forbidden to British subjects in foreign territory.”<sup>139</sup> In commenting on a letter on the topic from an unidentified source, Maine observed that “I do not know whether ‘slavery’ is here used for slave dealing or slave owning. But surely this govt. never did or does meddle with domestic slavery in Native states, as I confess I was unaware that it prohibited the land-traffic in slaves.” After a short discussion raising interesting questions about the sovereignty of the “native states” in relation to British sovereignty, the diplomat closes the report by noting that “[t]he status of slavery would not be recognized by the British Govt, but active measures to examine the household arrangements of Chiefs and nobles and to manumit any domestic slaves have never been taken, and there are no doubt servants whose position differs little from that of domestic slavery.”<sup>140</sup>

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<sup>139</sup> Ibid.

<sup>140</sup> Ibid.

Similarly, the fact that British officials in Hyderabad believed that slavery was still widespread was made clear in a consular report observing that that ‘every Arab who comes to Hyderabad ...brings with him one or two Habshi slaves.’<sup>141</sup> Sexual insinuations often followed, as in a report from another province that “Destitute Mahomedan girls can frequently obtain a livelihood as unpaid maid servants in the houses of wealthy Mahomedan gentlemen, where they doubtless lead a life of concubinage.”<sup>142</sup>

There were similar problems in the Persian Gulf. Data gleaned from the consular reports and other reports generated by the British residents, political agents, and naval officers in the Persian Gulf, relative to the slave-trade and records collected in a compilation called “the Persian Gulf Precis,” shed quite a bit of light on the nature of the effort to suppress the slave-trade. The reports show that the administration of the effort to suppress the carriage of slaves on the high seas, at least in the Persian Gulf, was remarkably uneven. When one of Her Majesty’s ship-of-war were specifically assigned to these duties there was generally great success in the area patrolled by that ship. For example, the Resident in Muscat reported that dhow traffic in slaves markedly declined when H.M.S. *London*, was specially assigned to dhow-catching duties near Zanzibar. When the *London* was reassigned in 1883, the traffic greatly increased.<sup>143</sup> The Residents and naval officers complained that they were greatly hampered by the uneven coverage of the various slave-trade treaties; for example they had almost

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<sup>141</sup> Avril A. Powell, “Indian Muslim Modernists and the Issue of Slavery in Islam,” in *Slavery & South Asian History* (Indrani Chatterjee and Richard M. Eaton, eds.) Indiana University Press, Bloomington and Indianapolis, 2006, at 262-286 at p. 277, citing, at n. 61, the report of the Resident at Hyderabad to the foreign secretary to the Government of India and quoted in Indrani Chatterjee, “Abolition by Denial,” in *Abolition and its Aftermath*, op. cit., pp. 150-168, at p. 158, citing, at n. 49, records from the National Archives of India.

<sup>142</sup> Ibid. p.277, citing, at n. 62, Deputy commissioner of police, October 17, 1872, quoted in Sumanta Banerjee, “Under the Raj: Prostitution in Colonial Bengal” (New York: Monthly Review Press, 1998) p. 88.

<sup>143</sup> *The Persian Gulf Precis* (Gerrards Cross, Bucks: Archive Editions, 1986) (Reprints of 17 Compilations prepared by J.A. Saldanha and 1 by C.H. Gabriel, first printed in Calcutta and Simla, 1903-1908) Vol. III, pp. 24-35.

unfettered authority in the Dominions of the Sultan of Oman but had very limited authority along the coast of Iran and had practically no authority in dealing with the Chiefs of the Maritime Arab Tribes along the coast (referred to in other documents as the notorious “Northern Arabs”).<sup>144</sup> They also complained that slaving dhows often made their runs under false colors and, because of the unevenness of the treaty coverage, they could not board ships flying French and Turkish flags, among others. Eventually, a series of treaties with the “Maritime Arab Chiefs” made the job a little easier.<sup>145</sup> The Brussels Conference, General Act, 1890, which carved out colonial suzerainties in Africa, also granted reciprocal anti-slaving boarding rights to the signatories. The Residents also greatly complained about the unevenness of the assignments of ship-of-war to such duties, particularly in the Arabian Sea, and the general disinterest and lack of naval support they received from the Indian Navy and the Indian Government in Bombay.<sup>146</sup>

Abolition in the Sulu Empire was also apparently a slow and painstaking affair. Because the empire occupied a vast island archipelago, with a variety of sovereignties and a variety of economic circumstances, sometimes involving the Sultan and sometimes involving other European imperial entities, it is difficult to even discover an empire-wide edict designed to accomplish abolition. More research is required on this question.

### **Islamic Law and Abolition**

Islam is often regarded as a creed that uncompromisingly demands that governments conform to a religious ideology but this is not always true; the abolition of slavery is perhaps

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<sup>144</sup> Ibid., pp. 147-180

<sup>145</sup> Ibid. The treaties are compiled at pp. 1-26.

<sup>146</sup> Ibid.

the best historical example. Although conservative *'ulama'* sometimes objected, many Muslim secular leaders early on came to see that abolition was in the best interest of their societies and their governments. Action in the best interests of the community, sometimes requiring the overruling of an otherwise valid rule of Islamic law, is a well recognized jurisprudential option for governments in Muslim communities. As William Gervase Clarence-Smith and many other historians have pointed out, "[t]he most famous case lay outside the Indian Ocean, in Tunisia. Ahmad Bey, himself the son of a Sardinian slave woman, banned the slave-trade in 1841-2, and decreed in 1846 that all slaves requesting their freedom should be released. The Maliki and Hanafi muftis of Tunis justified these radical decrees with fatwas, Islamic legal opinions."<sup>147</sup> In another example, given to us by Behnaz Mirzai, British officials in Iran obtained a *fatwa* from the Shi'a *'ulama'* of Najaf, declaring that nothing in the Shari'a prevented the Shah from declaring the slave-trade to be illegal. Clarence-Smith makes the important observation that "...[w]ithin the colonies of Western powers, it was difficult to suppress slavery effectively if pious Muslims did not co-operate."<sup>148</sup>

In British India, the Indian Government began asking Muslim Muftis (and Hindu pundits) to participate in the colonial judiciary as early as the late seventeenth and early eighteenth century. This was a kind of triple-edged sword. Shari'a minded scholars regarded it as an invalid corruption and domestication of Islamic law; the British orientalist mind, personified by people like Sir William Jones, Judge of the Calcutta court and Sanskrit scholar, the Duke of Wellington,

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<sup>147</sup> William Gervase Clarence-Smith, "Islam and the Abolition of Slavery and the Slave-Trade in the Indian Ocean," *Abolition and its Aftermath in Indian Ocean Africa and Asia*, ed. Gwyn Campbell (London: Routledge, 2005), 137, n.4, citing L.C. Brown, *The Tunisia of Ahmad Bey, 1837-1855* (Princeton: Princeton University Press, 1974) 30-2, 322-5; R. Khoi, *Modern Arab Thought: Channels of the French Revolution to the Arab East* (Princeton, Kingston Press, 1983), 152-4.

<sup>148</sup> *Ibid.*

and Sir Henry Maine, regarded it as paying supreme deference to the Islamic legal system and the important needs of Muslim colonial subjects; pragmatists regarded it as a necessary, though sometime anachronistic and ossifying, evil in the non-Islamic colonial world.<sup>149</sup>

On the question of the validity of slavery and the slave-trade in India, the involvement of Muslim scholars was crucially important. Banaji quotes a fatwa from the early nineteenth century Indian muftis acknowledging that the ‘ulama’ knew that the capture and forced enslavement of “‘Negroes’ from Zanzibar, Ethiopia, Nubia, and other such places” was illegal under Islamic law. In his words, “[i]t may therefore be concluded that capture in war was the only source of slavery recognized by Mahomedan Law. ‘Perhaps there is no point of law,’ W.H. McNaughten comments, “which has been more deliberately and formally determined than this.”<sup>150</sup>

The fact that the Islamic ‘ulama’ in those places, e.g., Zanzibar, Nubia, and Ethiopia, as well as India, Egypt, and the Arabian Peninsula, would ignore and sometimes give their imprimatur to the horrific practices of slave raiders and slave dealers for over 1300 years raises profound and deeply disturbing questions about the viability of Islamic law as an effective legal tool for reform and progress, particularly in the colonial and post-colonial eras.

Yet several reform-minded Islamic scholars did emerge out of the Indian colonial experience and two took important positions on the question of slavery. Probably the most

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<sup>149</sup> For a provocative discussion of how this fact impacts on the teaching of Islamic law, see generally Lama Abu Odeh, “The Politics of (Mis)recognition: Islamic Law Pedagogy in American Academia,” *American Journal of Comparative Law* 52 (2004): 789.

<sup>150</sup> Banaji, *Slavery in British India*, 43-44, n. 4, citing “A Regulation for the guidance of the Courts of Judicature in cases of Slavery submitted by J. Harrington to the Court of N. A. with his minute of November 21, 1818, Judicial Department (Criminal), O.C. No. 14 of December 29, 1826, Bengal record Department and at n. 2. Macnaghten, *Principles and Precedents of Mahomedan Law*, Preliminary Remarks, p. XXX.

important, and certainly the more strident of these two scholars was Sayyid Ahmed Khan, a British-educated lawyer, activist, and educator.<sup>151</sup> In 1870 Khan published a monograph, in English, entitled “Essays on the Life of Muhammad” which was designed to refute the depiction of Muslims as “master slavers” in David Livingstone’s immensely popular books in the late 1850’s and 1860’s.<sup>152</sup> He argued that only prisoners of war could be enslaved under Islamic law and further that it was Muhammad’s successors who were unfaithful to the message of the Qur’an. He then published several sets of articles in Urdu under the title *Ibtal-i ghulami* (refutation of slavery). “They appeared in his Urdu-language periodical *Tahzib al-aklaq*, subtitled in English *Mohammedan Social Reformer....*” and were later republished in an Urdu book in 1893 and in an Arabic-language book two years later.<sup>153</sup> His publications were probably the first of a genre that has been broadly categorized as “‘modernist,’ rejecting, *inter alia*, the legitimacy of slavery in Islam; these had begun to influence thinking ‘far beyond the boundaries of Indian Islam.’”<sup>154</sup> The criticism of Islam that provoked Ahmad’s response, initially based on Western ideological views of slavery, had increased after the Indian Rebellion of 1857-8.<sup>155</sup> Clarence-Smith asserts that “Sayyid Ahmad’s assault on slavery was more extreme in Urdu than in English, in both tone and content, and was part of a wider polemic against conservative ulama.”<sup>156</sup> “He rejected temporary slavery for war captives, insisting on immediate release or

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<sup>151</sup> Khan later became a *sadr amin* in the British civil courts and the founder of the Anglo-Mohamedan College at Aligarh. Avril A. Powell, “Indian Muslim Modernists and the Issue of Slavery in Islam,” *Slavery & South Asian History*, eds. Indrani Chatterjee and Richard M. Eaton (Bloomington: Indiana University Press, 2006), 263.

<sup>152</sup> *Ibid.*, 143 n.52, citing J. Miller, “Muslim Slavery and Slaving, a Bibliography,” *The Human Commodity: Perspectives on the Trans-Saharan Slave-Trade*, ed. E. Savage (London: Cass, 1992), 249-250.

<sup>153</sup> *Ibid.*

<sup>154</sup> Avril A. Powell, “Indian Muslim Modernists...,” n. 3, citing H.A.R. Gibb, *Mohammedanism: An Historical Survey*, rev. ed. (London: Oxford University Press, 1969), 124.

<sup>155</sup> Powell Page #

<sup>156</sup> Clarence-Smith, *Islam and the Abolition*,” citing an unpublished paper by Powell.

ransoming. The making of all fresh slaves by capture had been prohibited after Muhammad's conquest of Mecca, and all Hadith to the contrary were set aside. Slavery should have disappeared in Islam within a generation. His arguments were based primarily on chapter 47, verses 4-5, of the Qur'an, which he called the 'freedom verses'" <sup>157</sup> These writings preceded by a generation similar modernist writings that were to come out of Egypt at the end of the nineteenth century. It is reasonable to conclude that Sayyid Ahmad Khan's discourse may have influenced Muhammad Abduh, the preeminent Egyptian reformer, Rashid Rida, although there is no direct evidence to prove this. Abduh said little about slavery, although he indicated that its abolition was not inconsistent with Islamic law. In a series of responses to questions from believing readers in a popular Islamic journal, Rida took a similar position, basing his judgment on a kind of utilitarian public interest. It is important also to note that the Sultans who did eventually seek abolition would often cite Islamic law in justification and this also suggests a concern about the public interest or at least recognition that Muslim public opinion is important in these societies and Islamic law is just as much an aid in shaping public opinion as any other normative principle might be. Thus, like much else that we have discovered in this inquiry, it is fair to conclude that the relationship between Islamic law and abolition is a complex and subtle one, much more so than is acknowledged by the purveyors of "the conventional wisdoms" and much more so than might be imagined by modern Muslims who want to sign up for simplistic cookie-cutter explanations of Islam's attitudes toward slavery and human equality.

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<sup>157</sup> Ibid., n. 56, citing J.M.S. Baljon, *The Reforms and Religious Ideas of Sir Sayyid Ahmad Khan* (Lahore: Sh. Muhammad Ashraf, 1970), 43-4; A. Ahmad, *Islamic Modernism in India and Pakistan, 1857-1964* (London: Oxford University Press, 1967).



## **Myths, Stereotypes, historical memory, and the modern Muslim mind**

I close this paper with an anecdotal account of events that occurred in Zanzibar. I have not been able to conclusively verify all of the events recounted to me by my correspondent in Zanzibar but the account is worth repeating as it underscores the importance of these issues in the education of the modern Muslim mind and my research seeking to verify the account is continuing.

I have gotten interested in the issue of the “badges and incidents” of slavery in the Indian Ocean world and I have discovered that in some Muslim societies they exist whereas in other Muslim societies they do not exist or it is difficult to discover them.<sup>158</sup>

The “badges and incidents” of slavery still exist in many African societies, including Zanzibar. I discovered this set of facts during my visits to Zanzibar in 1999 and 2000 and I began interviewing local *‘ulama’* in an effort to find out what was done about it and to discover their attitude. I learned that the issue had occupied the time and attention of the Islamic judges and the *‘ulama’* for some years. My investigations led me to seek out Sheikh Habib Ali Kombo, the former Chief Qadi of Unguja (Zanzibar) and Pemba. Several sheikhs and other religious personages indicated that he could provide some important information on the topic and so I sought him out for an interview. The interview detailed an extraordinary set of events and I am producing my notes of the interview here in full. The references to Masoud and Omar are to my translator (Masoud Shani) and an official from the Zanzibar Archives section of the National Museum (Omar Khamis) who accompanied me and assisted with introductions and

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<sup>158</sup> The phrase “badges and incidents” of slavery arises out of American 13<sup>th</sup> amendment jurisprudence. Although the language is not used in the amendment, it rapidly became associated with efforts by former slaves to rid themselves of social and legal disabilities connected with the servile heritage as well as with markers that would identify a person as someone with a servile heritage or memory of the servile condition.

translations. My editorial additions are in brackets. The notes were made right after the interview.

#### INTERVIEW WITH SHEIKH HABIB ALI KOMBO 10/16/99

Masoud, Omar, and I met at 10:30 on Saturday morning in front of the hospital (Nazim Moja?) just outside town. Omar then proceeded ahead and Masoud and I took a Dala-Dala [a local public conveyance] to Sheikh Habiiib's home, which is located off the airport road, near the Muslim Academy. We waited briefly outside his house while Omar went to fetch the Sheikh from the nearby home of one of his wives. There is a small madrassa near the house and a Qur'an class was in full session.

The Sheikh arrived, greeted us warmly, and invited us in. We sat and he sat next to me with Masoud and Omar on the opposite couch. I explained my purpose and it seemed that he understood some English, although Masoud translated my introduction for him. It was apparent from the outset that a set question and answer format would not be the most efficient way to interview the Sheikh. He had obviously thought about the topic in advance and it was clear he had a lot to say. So I sat back and let him take the lead. I am glad I did this as it was to bear fruit.

He first detailed his career. Sheikh Habib is from Pemba. He was born in the Mkwane [?] area of Pemba in 1938. He explained that he started serious study of Islam after he reached maturity. He had originally planned to be a tailor. He started study in 1950. In 1955 he began to memorize the Qur'an and also took some courses in English. He continued to study until 1962 when his teacher gave him an Ijaza, which is permission to teach. His teacher was JUMA BIN ABIBAKR. Juma was among his relatives and also Habib had married his sister. Juma was significantly older than Habib. In 1972 he was appointed to be a teacher in a government school (Pemba? Zanzibar?) where he taught Tauheed, Tafsir, Hadith, and Arabic. In 1976 (?) he was appointed to be District Qadhi. In 1978 he was appointed to be Chief Qadhi of Unguja and Pemba by the President of Zanzibar. I asked him to detail a little about the appointment process and he complied. The main qualification for the job, naturally, is Islamic knowledge—that is, Qur'an, Hadith, etc. The President's advisors search for a suitable candidate and arrive at three finalists. They then interview the three finalists and recommend a choice to the President. The 1978 candidacy was his first effort to seek the Chief Qadhi position. He was appointed and he served from 1978 until 1986. In 1986 he returned to the Ministry of Education (he did not explain why) and from there he "shifted" to Nkrumah Teacher Training College where he worked for one year. He then came to the Muslim Academy where he has been ever since as a teacher. He teaches Tafsir, Hadith, Sira, and Tarikh to diploma students in the Academy. It is clear in talking to Sheikh Habib that, while he is a scholar and former Chief Qadhi of an important part of the Islamic world, he is a very humble and simple man, with a very wide warm smile, a twinkle in his eye, and a gracious manner. He put all of us at ease as he talked.

After he finished describing his career, I asked him who some of his other important teachers were. He explained that he would often be sent to other Sheikhs for instruction. Among the most important of these Sheikhs were:

HASSAN BIN AMEER  
KHAMIS BIN HAJJI  
FATTAWI BIN ISSA  
SAID BIN ALI

Sheikh SAID BIN ALI was a teacher of his in Pemba. I asked whether he had heard any of these teachers discuss the topic of slavery in Zanzibar and he replied that SAID BIN ALI had talked about the topic in class in a very “zealous” way. I asked him to explain. He indicated that SAID BIN ALI had strongly asserted that the slavery practiced in Zanzibar was not the slavery contemplated by the *Shari’a* and that those who practiced that form of slavery were transgressors and nothing more than avaricious businessmen engaged in an entrepreneurial enterprise that was itself a transgression. He said that this came up in a class where the agenda for the class was the hadith of the Prophet Muhammad (p.b.u.h.) where the Prophet said that the Muslims are like one building so it is not allowed to transgress each other or allow others to transgress them. He indicated that the class session was prompted by questions from a student about the issue of slavery and the *Shari’a*. It seems that the student Bakr bin Hassan [now dead] was being harassed because both his parents had been slaves and some people in the community wanted to re-enslave him as a result of this circumstance. Bakr bin Hassan then came to Sheikh SAID BIN ALI and pressed him for his opinion on the issue and the Sheikh decided to devote a lot of time to the topic in class. According to Sheikh Habib, Sheikh SAID BIN ALI, using all four sources of the *Shari’a*—that is Qur’an, Hadith, Ijma’, and Qiyas—proved that Bakr bin Hassan was not a slave, that his parents had not lawfully been held in slavery, and that there had never been lawful slavery in Unguja, Pemba, or Tanganyika. Sheikh Habib said that this lecture made a big impression on him and that he never forgot it. When I pressed him on its importance in his training, he replied “kabisa, kabisa,” which, in the [Swahili] vernacular, signifies that it was of extreme importance. The lecture took place in the Ngwachani Mosque in Pemba sometime in the mid to late 1950’s (try to pin down date). The Ngwachani Mosque is between Chake (?) and Mouni (?).

I asked whether Sheikh Habib had ever heard Sheikh SAID BIN ALI repeat this opinion at any other time or occasion. He replied that Sheikh SAID BIN ALI had repeated the opinion at a Maulid an Nabi in about 1962. He also remembered that Sheikh SAID BIN ALI had repeated the opinion in a *khutba* in a marriage ceremony. He went on to announce in the *khutba* that social discrimination among Zanzibaris based upon status or lineage involving former slavery was *haram* because of the complete illegality of the former state of slavery.

It is not clear how many times Sheikh SAID BIN ALI made these pronouncements but Sheikh Habib remembers that SAID BIN ALI’s sheikhs had held the same opinion. Among them were:

SAID BIN HAMIDI

KHAMIS BIN SALIM  
HASSAN BIN AMEER  
KHAMIS HAJJI  
MUSA BIN QASIM

Sheikh Habib was not clear on how many times Sheikh SAID BIN ALI made this pronouncement on slavery but he remembers that some Ibadhi Sheikhs disagreed with Sheikh SAID BIN ALI and they expressed their disagreement openly and with some anger after they heard about his pronouncements on slavery at wedding ceremonies. The Ibadhi sheikhs let it be known that they disagreed with Sheikh SAID BIN ALI. There were some Ibadhis who agreed with him. Among them was SALUM BIN ALI of the Pemba area.

I asked Sheikh Habib whether there was a mechanism in place to resolve such disagreements. He said yes. It involved the Chief Qadhi calling together the other Qadhis, scholars, and other interested parties to discuss the matter and seek to reach a consensus on the problem. Sheikh Habib resorted to the procedure himself when he was Chief Qadhi to resolve a dispute that had arisen in the community concerning how to calculate the commencement of the Ramadhan fast.

I asked whether any such mechanism was employed to resolve the dispute that had arisen about Sheikh SAID BIN ALI's opinion concerning the unlawfulness of slavery in Zanzibar. Sheikh Habib replied that such a procedure was employed; that the Chief Qadhi at the time, [Omar bin Sumayt] (an eminent scholar), called together the Qadhis, the Sunni and Ibadhi scholars, and others interested in the question to discuss the issue. Sheikh Habib attended the meeting as the student of Shaikh SAID BIN ALI. He remembers it vividly. He indicated that there was much discussion among the Sunnis, using the same sources that SAID BIN ALI had used in his lectures and khutbas. The Ibadhis listened but did not argue against these sources. He remembers that the group reached agreement that Sheikh SAID BIN ALI was right, that the slavery that existed in Zanzibar was *haram* under the *Shari'a* and that there could be no legal disability as a result of it. The Ibadhis kept quiet and did not object to this resolution. This event occurred about 5 years before the revolution in 1964.

The revolution that Sheikh Habib Ali Kombo refers to was also a significant event in throwing off these "badges and incidents." The Africans revolted, overthrowing the Arab government of Zanzibar, and thousands of Arabs were killed in one night.<sup>159</sup>

From this record, I can draw a number of conclusions and comparisons. Was there an ethos created in Zanzibar comparable to the one created in Egypt which caused slavery and the

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<sup>159</sup> *Zanzibar*, 55-74.

slave trade to disappear? The answer clearly appears to be no. Even though there was not a comparable ethos, there are a number of similarities between the case of abolition in Egypt and the case of abolition in Zanzibar. In both cases, the result was accomplished relatively painlessly and with little violence or contention. Slavery did not vanish in Zanzibar. It died a slower death but a certain death nonetheless. In both cases the *'ulama'* played a significant role in abolition. In fact, it appears that the *'ulama'* played a stronger role in Zanzibar than in Egypt. This is a testament to the small and cohesive scholarly community that exists in Zanzibar and it may not be a function of the inherent nature of the ulamaic function in traditional Islamic governments. We should also remember that the Ibadhi influence guarantees that the *'ulama'* should play a role in the *Imam's* decision making. Yet, in spite of the fact of abolition in Zanzibar, it appears that an Islamic set of rules that tended to perpetuate slavery and inegalitarian hierarchies, rooted in the traditional law, continued to be enforced in Zanzibar for many years. These rules perpetuated the "badges and incidents" of slavery that appear to be largely absent in Egypt. Whether they exist in other places remains to be investigated. These are the kinds of inquiries that should occupy the attentions of the modern Muslim mind.

10/20/08

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