



*The Qur'an as Reportedly Practised and Preached  
by Mohammed: Part 10*

***'Owning slaves is part of  
God's Blessing'***



## Introductory notes

### Structure

In this series of papers, ten instructions contained within the Qur'an are considered.

Over the centuries the instructions contained within the Qur'an have been the subject of a range of different applications by different Islamic traditions. Surveying the full range of such interpretations is outside the scope of these papers. Rather the aim is to present clearly and accurately, on the best evidence available, what one might call 'true' or 'primitive' Islam: what the words of the Qur'an instruct, as it was intended to be understood at the time that it was announced. That is to say the instructions of the Qur'an as it was practised and preached by Mohammed.

To achieve this, and avoid any suggestion of 'cherry picking' or presenting verses out of their original context, in each case the verse or verses containing the instruction will be presented in full within the context of:

### The circumstances in which the verse was said to have been announced

Any report describing the circumstances in which Mohammed came to announce a verse, the **Asbab al Nuzul** (principally those collected by **Ali ibn Ahmed al Wahidi (d. 1075)**) are given to give it its traditionally understood immediate context.

### 16 leading translations

The author principally uses *The Study Quran* (2015). However, this translation is cross-referenced with **fifteen other leading English translations** of the Qur'an from a wide variety of traditions, and compared with:

### related verses of the Qur'an



### The example of Mohammed

Incidents from the recorded life of Mohammed in the *sira* or *hadith* showing how Mohammed wished the verse to be understood, or how he himself applied it.

### Sharia application

Rulings on the application of the verse by the founders of the **four major schools of Sharia jurisprudence** (Hanifa, Maliki, Shafii and Hanbali).

### Tafsir commentary

Commentary from the major **Quranic commentaries**.

## Sources

Information concerning the life, words and deeds of Mohammed comes chiefly from two sources:

**The sira** are the biographies written about Mohammed in the early centuries after his death. Of these the biography of Mohammed, *Sirat Rasul Allah*, by **Ibn Ishaq**, written about 120 years following Mohammed's death for the Abbasid caliph, is by far the fullest extant source of historical information concerning the life of Mohammed and the establishment of Islam.

Although Ibn Ishaq's biography gives a relatively early and full account of Mohammed's life, Muslims traditionally afford greater prescriptive authority to the **hadith**: accounts of the words and actions of Mohammed, each with a proven chain of narration leading back to one of Mohammed's companions. These tend to be fragmentary, often written with little or no context. The first collections of hadith were collected by jurists to establish authority for their rulings on Sharia law. From the mid-ninth century (about a century after Ibn Ishaq completed *Sirat Rasul Allah*) larger collections were compiled. There are six major collections of hadith recognised by Sunni Islam. All Islamic scholars accept that some hadith are forgeries, and scholars and judges differ over which may be considered authentic. However most treat those contained in the two 'sahih' ('trusted') collections of **Bukhari** and **Muslim** as the most reliable evidence available to Muslims of Mohammed's words and actions.

In the eleventh century **Ali ibn Ahmed al Wahidi** (d. 1075) compiled a collection of hadith relating specifically to the circumstances in which individual verses of the Qur'an came to be announced, the **Asbab al Nuzul**. This is widely regarded within Islam as the most authoritative collection of narration hadiths.

## Translation of the Qur'an

All quotations from the Qur'an are, unless otherwise indicated, taken from *The Study Quran* (2015). However, this translation is cross-referenced with the following fifteen other English translations of the Qur'an, representing secular scholarship and the full spectrum of Islamic traditions<sup>1</sup>:

*The Meaning of the Glorious Quran* (1930) by Muhammad Marmaduke **Pickthall**, British convert to Islam;

*The Holy Qur'an: Text, Translation and Commentary* (1934) Abdullah **Yusuf Ali**, a civil servant of the British Raj, said to be the most used English translation;

*The Koran Interpreted* (1955) Arthur John **Arberry**, non-muslim scholar;

*The Meaning of the Quran* (1972) by Syed Abul A'la **Maududi**, the founder of *Jamaat-e-Islami*, the largest Islamic organisation in Asia;

*The Glorious Qur'an* by Abdul-Majid **Dariyabadi** (Indian, d.1977);

*The Holy Qur'an (Koran)*, Muhammad Habib **Shakir** (the Ahmadiyya Community – a minority Islamic sect - have asserted that Shakir's translation was plagiarised from a translation by a member of their own community, Maulana Muhammad Ali);

*The Holy Qur'an* (1982) by Shaykh Muhammad **Sarwar**, US Shia;

*Al-Quran, A Contemporary Translation* (1984) by **Ahmad Ali**;

*The Noble Qur'an* (1985) by Muhammad Muhsin Khan and Muhammad Taqi-ud-Din al-Hilali (**Khan & Hilali**), said to be Saudi funded and reflecting Wahabi theology;

*The Qur'an, English Meanings* (1997) **Sahih International**, three US born female converts, Saudi published;

*The Meaning of the Glorious Qur'an* (2001) by Grand Shaykh Hasan Qaribullah and Shaykh Ahmad Darwish (**Qaribullah & Darwish**), of Umm Durman University, Cairo;

*The Qur'an With a Phrase-by-Phrase English Translation* (2005) by **Ali Qarai** of the Islamic College of Advanced Studies;

*The Qur'an: A New Translation* (2009) by Maulana **Wahihuddin Khan**, Indian, peace activist, a former member, later critic of *Jamaat-e-Islami*;

*The Clear Quran* (2012) by **Talal Itani**, Lebanese former engineer;

*The Quranic Arabic Corpus*, a collaborative online research project ([corpus.quran.com](http://corpus.quran.com)) administered by the University of Leeds.

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<sup>1</sup> All accessed via QuranX.com

## Verses of the Qur'an in chronological order<sup>2</sup>

Meccan surahs	
96	68
73	74
1	111
81	87
92	89
93	94
103	100
108	102
107	109
105	113
114	112
53	80
97	91
85	95
106	101
75	104
77	50
90	86
54	38
7	72
36	25
35	19
20	56
26	27
28	17
10	11
12	15
6	37
31	34
39	40
41	42
42	44
45	46
51	88
18	16
71	14
21	23
32	52
67	69
70	78
79	82
84	30
29	83

*“Those who have been favoured do not hand over their provision to those whom their right hands possess so that they would be equal...”*

16:71-76

## Principal verse considered in this paper

Medinan surahs	Historical context
2	The Hirah
8	The Battle of Badr
3	The Battle of Uhud
33	The Battle of The Trench
60	
4	
99	
57	
47	
13	
55	
76	
65	
98	
59	
24	
22	
63	
58	
49	
66	
64	
61	
62	
48	The Treaty of Hudaybiyyah
5	Conquest of Mecca
9	
110	

<sup>2</sup> There is no consensus on the exact order of Quran verses. This is a simplified version adapted from *The History of the Quran* by Allamah Abu Abd Allah al-Zanjani.

## The Qur'an on Slavery

### *Regulation of slavery in the Qur'an*

Several verses in the Qura'n regulate the possession of slaves:

- ❖ On four occasions **{4.24, 23.1-7, 33.50}** and **{70.29-30}** it is prescribed that a Muslim man does not commit adultery towards his wife by having sex with his slave;
- ❖ **{4.25}** encourages Muslim men to marry a Muslim slave rather if they are unable to marry a free Muslim woman;
- ❖ The same verse prescribes that a slave who commits an act of indecency should face half the punishment of a free Muslim woman (i.e fifty lashes rather than a hundred).

### *Manumission of slaves*

Other verses announced after the hijra, when Mohammed was establishing rules for the newly autonomous Muslim community to live by, refer to manumitting slaves.

Six verses of the Qur'an provide for the manumission of slaves:

- ❖ as act of piety **{90.13}** or of charity to the slave **{9.60}**; or
- ❖ as a penance to be performed for accidentally causing the death of a Muslim **{4.92}** or for breaking the terms of an oath **{5.89, 58.3-4}**; or
- ❖ in return for payment **{24.33}**.

The merit of the institution of slavery itself as representing God's blessing to the slave owner is proclaimed in **{16.71-76}** [following page]:



## **Surah 16 'The Bee'**

- 71. "And God has favoured some of you above others in provision. Those who have been favoured do not hand over their provision to those whom their right hands possess, such that they would be equal in this regard. Would they thus reject the blessing of God?"**
- 72. And God has ordained mates for you from among yourselves and from your mates he has ordained for you children and grandchildren. And He provided you with Good things. Will they then believe in that which is false and show ingratitude for the blessings of God?**
- 73. And they worship apart from God that which has no power over any provision which may come to them from the heavens and the earth; nor are they capable [of such].**
- 74. So set forth no parables for God. Truly God knows and you know not.**
- 75. God sets forth a parable: a servant enslaved with power over naught. And he over whom We have provided a goodly provision from us who spends of it secretly and openly. Are they equal? Praise be to God! Nay, but most of them know not.**
- 76. God sets forth a parable: two men, one of whom is dumb with power over naught, who is a burden unto his master; wheresoever he dispatches him, he does no good. Is he equal to one who enjoins justice and who is on a straight path?**

## Translation notes

### ***'Those whom their right hands possess'***

The phrase مَا مَلَكَتْ أَيْمَانُكُمْ / 'ma malakat aymanukum' appears fifteen times in the Quran. Eleven of the sixteen translations considered in this series translate the phrase as '*those whom one's right hand possess*'<sup>3</sup>, with Pickthall and Khan & Hilali adding the word 'slaves' in parentheses for the avoidance of doubt. Three translations (Ali Qarai, Maududi and Sarwar) translate the idiom simply as 'slaves'.

Only two of the translations used do not explicitly reference slavery: Ahmad Ali translates the verse as referring to '*dependents*' and Wahihuddin uses the word '*servants*'.

It is suggested that the verse clearly refers to slaves.

An alternative term for slave used in the Quran is '*abd*'. This may be used in a literal sense or sometimes figuratively, for example referring to Muslims as the slaves of God - '*abd allah*' – which is a common Muslim name (and the name of Mohammed's father). The more graphic term '*those one's right hands possess*' would seem to emphasise physical control of a person rather than a status, even a completely subservient one, within society.

## Narration circumstances

Al Wahidi does not include any narration account for **{16.71}**.

For verses **{16.75 and 76}** he merely recounts a tradition that the masters and servants mentioned in the verses were references to specific named individuals.<sup>4</sup>

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<sup>3</sup> This phrase is the origin of the term '*mamluk*', which became used to refer to the sultanate established in Cairo in 1250 when slave soldiers, overthrew the Ayyubid dynasty descended from Saladin, and which ruled there until Egypt's conquest by the Ottoman Sultanate in 1517.

<sup>4</sup> He wrote:

*"This verse ['Allah coineth a similitude: (on the one hand) a (mere) chattel slave'] about Hisham ibn Amr who used to spend his wealth openly and in secret and his client Abu'l-Jawza who used to bid him to stop doing so.*

*As for the verse ['And Allah coineth a similitude: Two men, one of them dumb, having control of nothing'] the dumb who has control of nothing is Usayd ibn Abi al-'Is and the one who [enjoineth justice and followeth a straight path'] is Uthman ibn Affan."*

## The Example of Mohammed

There are numerous hadith referring to Mohammed owning, buying and selling slaves and enslaving people who had hitherto been free.

For example:



[*Isnad (chain of transmission)*]

*"There came a slave and pledged allegiance to Allah's Apostle on migration. He [the Holy Prophet] did not know that he was a slave. Then there came his master and demanded him back whereupon Allah's Apostle ... said:*

*"Sell him to me."*

*And he bought him for two black slaves and he did not afterwards take any allegiance from anyone until he had asked him whether he was a slave (or a free man)."*

### Sahih Muslim

One incident is recorded in three hadith in which a man had liberated six slaves upon his death but had left (presumably in the opinion of his heirs) insufficient funds for his estate. Mohammed revoked the manumission of four of the slaves and ordered them sold instead to increase the value of the estate.

[*Isnad*]

*"A man freed six slaves of his when he was dying, and he did not have any wealth apart from them. News of that reached the Prophet and he was angry about that. He said:*

*'I was thinking of not offering the funeral prayer for him.'*

*Then he called the slaves and divided them into three groups. He cast lots among them, then freed two and left four as slaves."*

### Sunan an-Nasa'I (21.145/1958)

A similar hadith is recounted in the collections of **Sunan bin Majah** (133.38.2345) and **Abi Dawud** (31.36/3961).

The earliest and the most famous mass enslavement of a captured population took place following the siege of the Banu Quraysi in 627. After the Qurayzi had surrendered themselves to the judgment of Sa'd ibn Muadh, whom they had hoped would be merciful to them, Sa'd pronounced the sentence that the men of the tribe should all be executed and all the women and children enslaved<sup>5</sup>.

Following an account of the executions, Ibn Ishaq tells us<sup>6</sup>:

SIRAT RASUL  
ALLAH



Earliest  
biography of  
Mohammed,  
c.760

*"Then the Apostle divided the property, wives and children of the Banu Qurayza among the Muslims and he made known on that day the shares of horse and men, and took out the fifth.*

*A horseman got three shares, two for the horse and one for his rider.*

*A man without a horse got one share.*

*On the day of Banu Qurayza there were thirty-six horses. It was the first booty on which lots were cast and the fifth was taken. According to its precedent, and what the Apostle did, the division was made and it remained the custom for raids.*

*Then the Apostle sent Sa'd bin Zayd al Ansari brother of Abdul Ashhal with some of the captive women of the Banu Qurayza to Najd and he sold them for horses and weapons.*

*The Apostle had chosen one of the women for himself, Rayhana daughter of Amr bin Khunafa and one of the women of Banu Amd Bin Qurayza and she remained with him until he died, in his power. The Apostle had proposed to marry her and put the veil on her but she said:*

*'Nay, leave me in your power for that will be easier for you and for me.'*<sup>7</sup>

On two other occasions Mohammed took widowed captives of his military conquests as his slaves, later marrying them.

- ❖ **Safiyyah bint Huyayy** was captured during the Battle of Kaybar, during or shortly after which her father, brother and husband had been killed. Mohammed took her as his share of the booty, although she had earlier been selected by another Muslim, Dihyah, and married her three days after the battle.<sup>8</sup>
- ❖ **Barra**, later renamed **Juwayriyya** by Mohammed, was widowed and taken as a slave during a skirmish with the Banu Mustaliq. Her marriage to Mohammed led to the

<sup>5</sup> Ibn Ishaq p.684-713. See also hadith of Abu Dawood 14-2665; Ibn Majah 3:20:2541; Al Bukhari 4:52:280.

<sup>6</sup> 693

<sup>7</sup> Ibn Ishaq's narrative continues to state that Rayhana came to adopt Islam and Ibn Sa'd wrote, based on a source who lived about a century later, that Rayhana eventually married Mohammed and was manumitted from slavery, but this later account is not generally regarded as authoritative.

<sup>8</sup> Ibn Ishaq 766.

manumission of a hundred of her kinsfolk from slavery as they became connected by marriage to Mohammed.

In addition to Rayhana, referred to above, Mohammed kept at least one other concubine, Maryam al Qibtiyya, who bore him a son, Ibrahim, who died in infancy. The account of how Maryam's came to be in Mohammed's possession is recounted in *Tafsir Al Tabari*:



(bef. 923)

Earliest Qur'an commentary

*"Muhammad sent a letter to Muqawqis ['ruler of Egypt'] summoning him to Islam, who answered evasively. But with his answer the ruler of Egypt sent a rich present of a thousand measures of gold, twenty robes of fine cloth, a mule, a she-ass and, as the crown of the gift, two Coptic Christian slave girls escorted by an elderly eunuch. The girls were sisters, Mariyah and Sirin, and both were beautiful, but Mariyah was exceptionally so, and the Prophet marveled at her beauty."*

*"He gave Sirin to Hassan ibn Thabit, and lodged Mariyah in the nearby house where Safiyyah had lived before."<sup>9</sup>*

Ibn Ishaq also records the aftermath of the Battle of Hunayn in which the practice of enslaving captured women is engaged in by Mohammed without any sense that this was in conflict with the Sharia.<sup>10</sup>

SIRAT RASUL  
ALLAH



*"Then a deputation from the Hawazin came to [Mohammed] in al Jirana where he held 6000 women and children... The Apostle said:*

*'Which are dearest to you? Your sons and wives or your cattle?'*

*They replied:*

*'Do you give us a choice between our cattle and our honour? Nay, give us back our wives and son, for that is what we most desire.' ...*

[Mohammed agreed to return the women and children but some of his soldiers who had already taken possession of them objected.]

*Then the Apostle said:*

*'He who holds to his right to these captives shall have six camels for every man from the first booty I take.'*

*Then the women and children were returned to their men.*

<sup>9</sup> Tabari.

<sup>10</sup> 878

*Aby Wajza Yazid bin Ubayd al Sa'di told me that the Apostle gave Ali a girl called Rayta ..., and gave Uthman a girl called Zaynab, and gave Umar a girl whom Umar gave to his son Abdullah...*

*Uyayna ibn Hisn took an old woman of the Hwazin and said as he took her:*

*'I see that she is a person of standing in the tribe and her ransom may well be high.'*

*When the Apostle returned the captives to at a price of six camels each he refused to give her back. Zuhayr Abu Surad told him to let her go for her mouth was cold and her breasts were flat, she could not conceive and her husband would not care. So he let her go for the six camels when Zuhayr said this. They allege that when Uyayna met al Aqra bin Habis he complained to him about the matter and he said:*

*'By God you didn't take her as a virgin in her prime or even in plump middle age!'<sup>11</sup>*

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<sup>11</sup> Umar, Uthman and Ali, who are all mentioned in this account, were Mohammed's closest companions and were connected to him by marriage, Umar having married Mohammed's granddaughter, and having given his own daughter, Hafsa, to Mohammed in marriage; Uthman having married Mohammed's daughter Ruqayya and Ali – who was also Mohammed's first cousin - having married two of Mohammed's daughters and thereby being Umar's father in law. Each would in turn become leaders of the Muslim community following Mohammed's death as the second, third and fourth caliph.

The Musnad of the jurist Ahmad bin Hanbal (writing c.850, see below) records hadith in which Mohammed is portrayed as a dealer in slaves:



[*Isnad ... "It was narrated from Ali"*]

"... [Ali] said to Fatimah one day: '

*By Allah, I have brought water until I feel a pain in my chest.' He said: 'Some captives have been brought to your father; go and ask him for a servant'.*

*She said:*

*'And I, by Allah, have ground flour until my hands became sore'.*

*So she went to the Prophet and he said:*

*'What brings you here my daughter?'*

*She said: 'I have come to greet you' and she felt too shy to ask him and so she went back...*

*So they went together and I said:*

*'O Messenger of Allah, by Allah I have brought water until I started to feel a pain in my chest'*

*and Fatima said:*

*'I have ground flour until my hands hurt. Allah has brought you plenty of captives so give us a servant.'*

*The Messenger of Allah said:*

*'By Allah I will not give it to you and leave ahlus-suffah starving when I have nothing to spend on them. Rather I will sell them and spend the price...(providing for the ahlus suffah)."*

**Musnad of Ahmad bin Hanbal (838)**

Several hadith of Mohammed instructing Muslims to show concern for their slaves (although some of these are classified as having weak chains of transmission):

[*Isnad: "...It was narrated by Abu Bakr"*]

*The Messenger of Allah... said:*

*'No miser, cheater, traitor or person **mistreats their slaves** will enter Paradise. The first to knock at the gates of Paradise will be the slaves if they fulfil their duties towards Allah and towards their masters properly.'*



[*Isnad: "...It was narrated by Ali"*]

*"The Messenger of Allah... wanted me to bring something on which to write by means of which his ummah would not be misguided after he was gone. I was afraid that he would die (before I could bring it). I said:*

*'I can memorise and understand'.*

*He said:*

*'I urge you to pray and pay zakah and **be kind to those your right hands possess.**'"*



[*Isnad: "...It was narrated by Ali"*]

*'The Messenger of Allah instructed me to sell two slaves who were brothers so I sold them and separated them. I told the prophet about that and he said:*

*'Go and find them and take them back and **do not sell them except together**'"*

***Musnad of Ahmad bin Hanbal***, (13, also 31: both described as 'weak'; 693 ('weak') and 760.)

In one hadith Mohammed instructed Abu Bakr to free a slave, but it is clear that this was an act of kindness towards the slave for good service, and that other slaves would soon be coming to take the place of the one that was freed.

[*Isnad*]

*"It was narrated from Al Hasan concerning Sa'd the freed slave of Abu Bakr who used to serve the prophet that the Prophet... liked his service and said:*

*'Oh Abu Bakr, manumit Sa'd'*

*He said:*

*'O Messenger of Allah we have no helper except him.'*

*The Messenger of Allah said:*

*'Manumit Sa'd. Other men are coming, other men are coming'."*

***Musnad of Ahmad bin Hanbal*** (1717)

The overall scale of slavery to serve the needs of Muslims that followed Mohammed's military successes in his later years is indicated in the following hadith:

[*Isnad*]

*"A man entered upon him, Abu Ubaidah, and found him weeping. He said:*

*'Why are you weeping, O Abu Ubaisdah?'*

*He said:*

*"We are weeping because the Messenger of Allah mentioned one day that the victories that Allah would grant to the Muslims and how much booty he would grant them and he even mentioned Syria. He said*

*'If you live long O Abu Ubaidah, three servants will be enough for you: a servant to serve you, a servant to travel with you and a servant to serve your family and take care of them. And three mounts will be sufficient for you...'*

*And now here I am. Look at my house, it is filled with slaves and look at my stable it is filled with mounts and horses How can I meet the Messenger of Allah after this?"'*

***Musnad of Ahmad bin Hanbal*** (1696)

The theologian and jurist Ibn Qayyim al-Jawziyya (1292-1350), writing in his book *Zad al-Ma'ad* (*Provisions of the Hereafter*) listed Mohammed's personal slaves as:

Male	Female
Yakan Abu Sharh	Thawban
Aflah	Ab Kabsha
'Ubayd	Salih
Dhakwan	Rabah
Tahman	Yara Nubyan
Mirwan	Fadila
Hunayn	Waqid
Sanad	Mabur
Fadala Yamamin	Abu Waqid
Anjasha al-Hadi	Kasam
Mad'am	Abu 'Ayb
Karkara	Abu Muwayhiba
Abu Rafi'	Zayd Ibn Haritha (Mohammed's adopted son)
	Mahran
	And two other maids

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<sup>12</sup> Massacre of the Banu Qurayza

<sup>13</sup> Maryam bore Mohammed a son who died in infancy

## **Islam After Mohammed**

The century after Mohammed's reported traditional death in 632 saw Arab armies conquer large parts of the Byzantine Empire in the Middle East and North Africa, most of Spain, the whole of the Sassanian Empire (Persia), large tracts of central Asia and as far east as Sindh (in modern Pakistan). .

It is debatable how 'Islamic' these armies were. For sixty years until the building of the mysterious Dome of the Rock in Jerusalem they left no identifiably Islamic monuments and continued to mint coins with crosses on. Up to the Abbasid revolution in 750 there was no Islamic book written and the words Muslim, and Qur'an were not mentioned in the chronicles of the people they conquered: other than a contemptuous account of four books of the Qur'an by a Christian official, John of Damascus.

According to the traditional Islamic narrative this was a period of brutal and bloody power struggles amongst Mohamed's most followers that commenced even as Mohammed was being buried and included his closest companions. Later doctrinal differences would emerge between the parties that would become Sunni and Shia Muslims, but in the beginning there was no sign that the differences were driven by any issue of any doctrine beyond the issue of who possessed the authority to lead the community.

See ***Who Wrote the Qur'an?*** On the IRG website

## **The four great Sunni *Sharia* jurists**

Following the establishment of the Abbasid Caliphate the earliest known attempts to arrange the Quran's instructions into a legal framework were made. Today the vast majority of Muslims follow one of the four schools of *Sharia* law (*fiqh*) that developed from the approaches of Abu Hanifa, Abu Malik ibn Anas, Mohammed ibn Idris al Shafii, and Ahmad ibn Hanbal

## The four great Sunni Sharia jurists

### Jaffar al-Sadiq (c.700-765)

Al Sadiq was a fifth-generation descendant of Mohammed and is revered by most Shia Muslims as the sixth imam.

He is generally regarded as Islam's first legal theorist, although his own ('Jaffari') jurisprudence, placing emphasis on the authority of the imams, is influential only with Shia Muslims.

#### Students of Jaffar al Sadiq

##### Abu Hanifa (c.699-767)

###### Rationalist

A collection of Abu Hanifa's rulings, *Kitab al-Athar Abu Hanifa*, written by his student Mohammed Shaybani, is claimed as the first book written in the Islamic community following the Quran.

The approach of the **Hanafi** school based upon these rulings stresses:

- ❖ the use of reason to interpret instructions in the Qur'an and hadith to achieve their supposed purpose;
- ❖ the judge's duty to consider equity and public interest as factors in applying the law

##### Abu Malik bin Annas (711-795)

###### Traditionalist

Malik compiled the earliest collection of hadith as a lawbook entitled the *Muwatta*

The Maliki approach to Sharia law emphasises imitating the practices of the first three generations of followers of Mohammed (the *salafa*), especially those living in Medina, as evidence of the authentic practice of Mohammed and his companions.

###### Student of Malik

##### Mohammed al-Shafii (767-820)

###### Conservative

Shafii rejected both judicial law-making and Medinan traditions as comprising man-made rather than divine law. His school recognised only the instructions in the Qur'an, example of Mohammed and analogies drawn from these.

###### Student of al-Shafii

##### Ahmad bin Hanbal (820-855)

###### Ultra-conservative

Hanbal's approach to interpreting Sharia reduces the scope for innovation to its minimum by limiting any extension of the literal words of the Qur'an and hadith by analogy to strict categories.

Instead it prefers to rely on hadiths including those that it acknowledges to have weak chains of transmission, where these are the only authority available.

## The four great Sunni jurists and slavery

The works of all four major Sunni jurists assume the existence of slavery within the Muslim community and structure sharia law to accommodate slavery.

In *Kitab al-Athar Abu Hanifa*, Shaybani recorded judgments from Abu Hanifa that include:



- restricting a slave to marrying either up to only two women<sup>14</sup>;
- prohibiting a slave from having intercourse with a woman whom his right hand possesses, or keeping their own concubine<sup>15</sup>;
- restricting those whom are permitted to have intercourse with a slave to the slave's purchaser or one to whom the slave was given<sup>16</sup>;
- permitting a slave's owner to declare their slave's marriage divorced, if that marriage was without their consent<sup>17</sup>;
- permitting a former slave owner who had married and freed their slave to divorce her after two talaqs and then repurchasing her and resuming having intercourse with her as his slave again;<sup>18</sup>
- exempting intercourse with slaves from the general rule that a Muslim may not practise withdrawal during intercourse to avoid pregnancy without the woman's consent;<sup>19</sup>
- prescribing that a where a slave woman is sold whilst having a husband '*her sale is her divorce.*'
- restricting the right of a slaveowner upon their deathbed to free a slave unconditionally if the owner owed debts, whereby the slave must work to repay those debts before becoming free;<sup>20</sup> and
- establishing a fixed reward (40 dirhams) for the recapture of a runaway slave.<sup>21</sup>

In two passages Shaybani recalls Abu Hanifa encouraging the freeing of slaves, stating:

*"Abu Hanifa informed us from Hammad that Ibrahim said:*

*'Whoever frees a soul, then for every limb of his [the slave's] Allah will free a limb of his [the owner's] from the Fire, so much so that if it is a man it is recommended that he free a man because of the perfection of his limbs, and that a woman free a woman because of the perfection of her limbs.'*

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<sup>14</sup> 393

<sup>15</sup> 394,396

<sup>16</sup> 395

<sup>17</sup> 397

<sup>18</sup> 422

<sup>19</sup> 448. There would be advantages for a slave in becoming pregnant with their master's child in that the slave would be freed upon their master's death as the mother of his heir.

<sup>20</sup> 657

<sup>21</sup> 891

In *Al-Muwatta, ('The Approved')* Malik Bin Anas accepts slavery as a part of the social organisation of a society based upon Islamic principles.

In the book on *Divorce* a section (Book 29, Chapter 18) is devoted to the divorce of slaves, specifying that male slaves need only pronounce the declaration of divorce ("talaq") twice for it to become effective, as opposed to three times for free men, and that female slaves' *iddah* (waiting period before a divorce becomes irrevocable by the man) is reduced from three menstruations to two.

Several provisions relating to slaves appear in a section *Business Transactions* (Book 31). These show that slaves could possess property and even slaves of their own. For example:



*"Malik, on the authority of Nafi from Abdullah bin Umar that Umar bin al Khattab said:*

***'Whoever sells a slave who has property, his property is for the seller unless the buyer sets a condition to have it in the contract'***

*Malik said: We unanimously agree that if the buyer sets a condition to take the money of the slave, he has the right to have it either in cash or as a debt or in instalments, whether it is known or not. If the slave owns money more than the price by which he is sold, his value will be in cash or debt or instalments. That is because the money of the slave is not to be paid as Zakat by the master.*

***If the slave has a slave girl, he has right to copulate with her if he owns her.***

*If he slave is emancipated or makes a kitaba [an agreement with his master to buy his own freedom] his money follows him."*<sup>22</sup>

A book of the *Muwatta* specifies the rules of *kitabas*, including that a slave owner is under no obligation to offer their slave a *kitaba*. Also that a slave who gives birth before they can raise the money to buy their freedom will not leave their child with their former master.<sup>23</sup>

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<sup>22</sup> Book 31, chapter 2

<sup>23</sup> Book 39

The Maliki code shows that the Islamic world was developing an early scheme of fair trading, but there is no qualms concerning treating slaves as items of commerce, the sections on trading slaves falling between the renting of animals and the sale of unripe fruit.

*"Malik on the authority of Yahia bin Said from Salim bin Abdullah that Abdullah bin Umar sold his slave for eight hundred dhirrums so as to be clear of any charge after selling. Then the buyer told Abdullah bin Umar*

*'The slave had a disease which you have not told me about'.*

*They argued to Uthman bin Affan<sup>24</sup> ... Uthman judged that Abdullah had to swear that he sold it without knowing about the disease of the slave.*

*Malik said:*

*'We agree that anyone who bought any slave girl and she became pregnant or any slave and emancipated him or anything that has a fault with which it cannot be returned and evidence becomes a must that there was a fault in that purchase and the one who sells it or anyone else acknowledges that; in such a case **the slave or the slave girl is evaluated with its fault on the day of buying and what is left of its value until being healthy and while being in fault is paid back.**'*

*Malik said:*

*'We all agree that **when a man buys a slave then he discovers a fault with which he must be returned back** and another fault happens at the buyers, if the fault that happens is spoiling such as cutting any part of him or blinding one eye or anything similar to that, the buyer of the slave then has either of one of the two options: if he likes a part of the value of the slave is to be dropped as much as the fault which he had on the day that when he buys him and if he likes he can pay as much as the fault that happens to the slave when he was with him. Then the slave will be returned back.*

***If the slave dies at the buyers, he'll be evaluated at the day of buying and his value will be considered.** If it was a hundred dinars on the day of buying without fault and it was eighty dinars on the day of buying with fault the difference between the two values will be dropped from the buyer... "<sup>25</sup>*

In relationship to the rights of creditors to seize the assets of a man who is declared bankrupt:

*"Malik said:*

***'As for him who buys a slave girl or a riding camel which gave birth in his house, and then he goes bankrupt, the slave girls and her baby or the animal and its baby will be the seller's unless the creditors want this, for in such a case they give him his full dues and take her or it.'**<sup>26</sup>*

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<sup>24</sup> The third Rashidun caliph

<sup>25</sup> Book 31, chapter 4

<sup>26</sup> Book 31, chapter 42

The *Muwatta* addresses the situation that an escaped slave of a Muslim is later captured as the spoils of war:

*"Yahia narrated from Malik:*

**'A slave of Abdullah bin Umar ... escaped and a horse of his wandered off. Then the polytheists got them. Yet the Muslims got them as war booty. Therein they were restored to Abdullah bin Umar before dividing the war booty.'**

*He added:*

*'I heard Malik saying as for what the enemy gets of the Muslims' property if it is got by the Muslims before dividing the spoils then it is to be reverted to its owner. Yet if it is put into the division of the war spoils then it is to be restored to no one.'*

*Malik was asked about a man whose male slave was captured by the polytheists and then taken as spoils by the Muslims.*

*Malik replied:*

***'His (original) owner is more entitled to take him in return of no price, value or compensation unless the war booties were divided. Yet if they were divided I view that the male slave is to return to his master in return of money if he (the owner) wishes.'***<sup>27</sup>

The permission in the Quran that a man may have sex with one his right hand possesses is clarified that this only extends to slaves owned entirely by one person free of any restrictions (so the right does not extend to the situation where a man jointly owns a slave with his wife). <sup>28</sup>

Further a man may not give a slave girl to one of his sons unless he gives a similar slave girl to each of his other sons, since this would constitute favouritism.<sup>29</sup>

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<sup>27</sup> Book 21, 989

<sup>28</sup> Book 31, chapters 5 and 6.

<sup>29</sup> Book 36, chapter 33

The pre-eminent Shafi'i legal text is *Umdat al Salik* (the '*Reliance of the Traveller*') by Ahmad ibn Naqib al-Misri (completed 1368). The leading English translation of this work (by Nuh Ha Mim Keller) leaves the section on slaves untranslated 'because the issue is no longer current'.<sup>30</sup>

However, slavery nevertheless makes occasional appearances elsewhere in the text, for example:



*"An expiation is obligatory for someone who swears and breaks an oath...  
the expiation consists of*

- (1) *freeing a sound Muslim slave;*
- (2) *to feed ten people...*
- (3) *to provide clothing for ten people...*

*If one is unable to do any of the above one must fast for three days.* <sup>31</sup>

Several hadith recorded by Ahmad bin Hanbal detailing Mohammed's dealing with slaves have been produced above. He also recorded:



*"It was narrated from Ali bin Abi Talib that the Prophet said:*

*'Blood money will be paid for the mukatab (slave with a contract of manumission) commensurate with as much as he has paid off.'*

No. 818 (with a similar hadith at 1944)

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<sup>30</sup> Ms Keller, commenting on the missing section of her translation adds the following comment of her own:

*"This section, which begins 'To free a slave is an act of worship', deals with a system of ownership that Islam did not invent but found fully established and not possible to instantly abolish. So it rather encouraged its elimination in steps with incentives..."*

without commenting upon contradiction to this thesis that the very book that she was translating was written a full six centuries following the death of Mohammed.

<sup>31</sup> O.20.2

## Tafsir (Commentaries on the Quran)

Of the two earliest tafsir, the author has been unable to source a complete English translation of **Tafsir al Tabari**. The tafsir of **Tustari** (a ninth century sufi) contains no commentary on these verses other than for a comment on the phrase '*children and grandchildren*' in {16.72}, which is not relevant to this topic.

The **Tafsir Ibn Kathir** suggests that the Quran verse {16.71} is, in part, a metaphor condemning the raising of humans to parity with God.



(c.1360)

Most widely used Qur'an commentary

**"[Do they then deny the favour of Allah?] Meaning they assign to Allah a share of the tilth and cattle which He has created. They denied His blessings and associated other in worship with him.**

*Al Hasan Al Basri said Umar bin al-Khattab<sup>32</sup> wrote this letter to Abu Musa al Ashari:*

*'Be content with your provision in this world for the Most Merciful has honoured some of His servants over others in terms of provision as a test for both. The one who has been given plenty is being tested to see if he will give thanks to Allah and fulfil the duties which are his virtue by wealth.'"*

The *Tafsir Tanwir al Miqbas*, attributed to Abdullah ibn al-Abbas, a cousin and young companion of Mohammed, but which is thought to have been compiled in the 14<sup>th</sup> C., offers the more specific explanation, that the verse was intended as an analogy to refute the claims of Christians that Jesus could be human and also divine:



Attributed to the companion of Mohammed but believed to be 14<sup>th</sup> C

**"[‘And Allah hath favoured some of you above others in provision’] was revealed about the delegation of Najran who claimed that Jesus was the son of Allah. So Allah revealed this verse to tell people that He has favoured some people to the exclusion of others in relation to the possession of wealth and servants.**

**[‘Now those who are more favoured’] with **wealth and servants** [‘will by no means hand over their provision to those (slaves) whom their right hands possess, so that they’] i.e. **the master and the slave** [‘may be equal with them in respect thereof’] about wealth.**

*They said:*

*'We will not do so nor are we happy about this',*

*and so Allah said: [‘Is it then the grace of Allah that they deny?’] Do you like for Me what you do not like for yourselves, and thus deny the Oneness of Allah?"*

<sup>32</sup> Mohammed's companion and the second caliph following the death of Mohammed.

## Conclusion and Comment

Muslims believe that the Quran:

- contains the verbatim words of God,
- is intended to be prescriptive, to guide mankind as to the social order that God wishes; and
- may never be reviewed or amended.

The Quran regulates the institution of slavery, assumes the existence of slavery for the operation of some sanctions, and even, in **{16:71-6}**, discourages the excessive generosity of slave owners to their slaves as a rejection of the blessing that God has bestowed upon the owner – his dominion over the slave.

**There is no verse of the Quran that discourages the practice of slavery.**

Furthermore all the major sources concerning Mohammed's life record Mohammed owning slaves, selling and giving slaves away to his supporters, and enslaving people who had until then been free. This continued to be the case even after Mohammed's conquest of Mecca by which time he was effectively unchallenged as both political ruler and God's messenger in Western Arabia and when he might readily have abolished slavery had he so intended.

Although Mohammed is said by (weak) hadiths to urge kindness to slaves and to regard freeing individual slaves as an act of charity, piety or penance, **there is no indication in any hadith or in any early account of Mohammed's life, that Mohammed disapproved of the practice of slavery in itself.**

All four major Sunni schools of fiqh (jurisprudence) established in the second century after the death of Mohammed assume the existence of slavery with detailed regulation of the keeping, treating, marriage possibilities, worth, return for defects and manumission of slaves in Sharia law.

No classical Quranic commentary disapproves of slavery *per se* on religious grounds.

**Consequently it is unavoidable that the instructions of the Quran, as it was clearly intended to be understood at the time that it was revealed and as practised and preached by Mohammed, promote the view that God instructs that the keeping of people in slavery as at least morally permissible, if not an intended, part of an Islamic social order.**

The practice of slavery is abhorrent to modern society. It is illegal in the UK (currently under the Modern Slavery Act 2015) and is one of only three rights under each of the United Nations' Universal Declaration on Human Rights and the European Convention on Human Rights that may never be breached under any circumstances. The fact that several European countries were a party to permitting slavery to take place in their colonies from the seventeenth to the early nineteenth centuries is generally regarded as one of the greatest stains on the continent's history. Conversely the abolition of the Atlantic slave trade by the UK and the emancipation of the slaves in the USA are now regarded as amongst those nations' proudest moments.

**It follows that with regard to slavery, the conduct promoted in the text of the Qur'an, given its plain and originally intended meaning, and the example of Mohammed, are inconsistent with the values of modern liberal civilised society.**