

STUDIES IN GLOBAL SLAVERY 8

Possessed by the Right Hand

*The Problem of Slavery
in Islamic Law and Muslim Cultures*



Bernard K. Freamon

BRILL

POSSESSED BY THE RIGHT HAND

► THE PROBLEM OF SLAVERY IN ISLAMIC LAW AND MUSLIM CULTURES

► By BERNARD K. FREAMON, PROFESSOR OF LAW EMERITUS, SETON HALL LAW SCHOOL

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THE MAIN POINTS

- *MA MALAKAT AYMANUKUM*
- THE FIRST COMPREHENSIVE LEGAL HISTORY OF SLAVERY IN ISLAM
- FOCUS ON INDIAN OCEAN
- ASSESSMENT OF “MAMLUK/GHULAM” PHENOMENON
- WHAT WERE THE RULES?/TAXONOMY
- PRIORITARIANISM IN ISLAMIC LAW
- IMPACT OF ABOLITIONISM
- THE ILLUSION OF ABOLITION
- PROPOSAL FOR ABOLITION UNDER ISLAMIC LAW



PRE-ISLAMIC SLAVE SYSTEMS, SLAVE TRADES, AND LAW IN THE MIDDLE EAST

- MESOPOTAMIAN
- ANCIENT EGYPTIAN
- ANCIENT IRANIAN
- HINDU
- BUDDHIST
- ETHIOPIAN
- ARAB CUSTOMARY
- HEBREW
- GREEK
- ROMAN(2)

- COMMON MEANS OF INGRESS
 - BIRTH
 - CAPTURE IN WAR
 - CAPTURE BY PIRATE OR BRIGAND
 - PUNISHMENT FOR CRIME
 - COLLECTIVE ETHNIC SUBJUGATION
 - SIN/TRANSGRESSION
 - TO SATISFY DEBTS
 - SELF-SALE
 - SALE OR GIFT BY ONE *IN LOCO PARENTIS*
 - AS SECURITY FOR DEBT OR OBLIGATION
 - CALAMITY OR PREDICAMENT (e.g., famine)
 - FOUNDLING OR OTHER UNKNOWN STATUS



CHANGES WROUGHT BY REVELATIONS OF QUR'AN AND ACTIONS OF EARLY MUSLIMS

CHANGES IN PRACTICE

- ▶ EMPHASIS SHIFTS TO EMANCIPATION
- ▶ HUMANITY OF SLAVES RECOGNIZED
- ▶ BELIEVING SLAVES HAVE RELIGIOUS OBLIGATIONS
- ▶ MARRIAGE WITH BELIEVING SLAVES ENCOURAGED
- ▶ EGALITARIAN ETHIC CAUSES SHIFT IN CONCEPTIONS OF SLAVERY
- ▶ IN SPITE OF THESE CHANGES, PRIOR PRACTICES CONTINUE TO COMMAND GREAT INFLUENCE

CHANGES IN LAW

- ▶ PRESUMPTION OF FREEDOM
- ▶ ALL MEANS OF INGRESS ABOLISHED EXCEPT TWO:
 - ▶ BIRTH FROM TWO LAWFULLY ENSLAVED PARENTS
 - ▶ CAPTURE IN A JIHAD/WAR
- ▶ MUSLIMS MAY NOT BE ENSLAVED
- ▶ EMANCIPATION MADE A LEGAL AND JURIDICAL PRIORITY
- ▶ RULE OF UMM AL-WALAD
 - ▶ CHILDREN OF CONCUBINES AND OWNERS ARE FREE AND JURIDICAL EQUALS OF FREE CHILDREN WHO ARE PRODUCTS OF MARRIAGE
 - ▶ CONCUBINE IS AUTOMATICALLY FREE ON DEATH OF OWNER

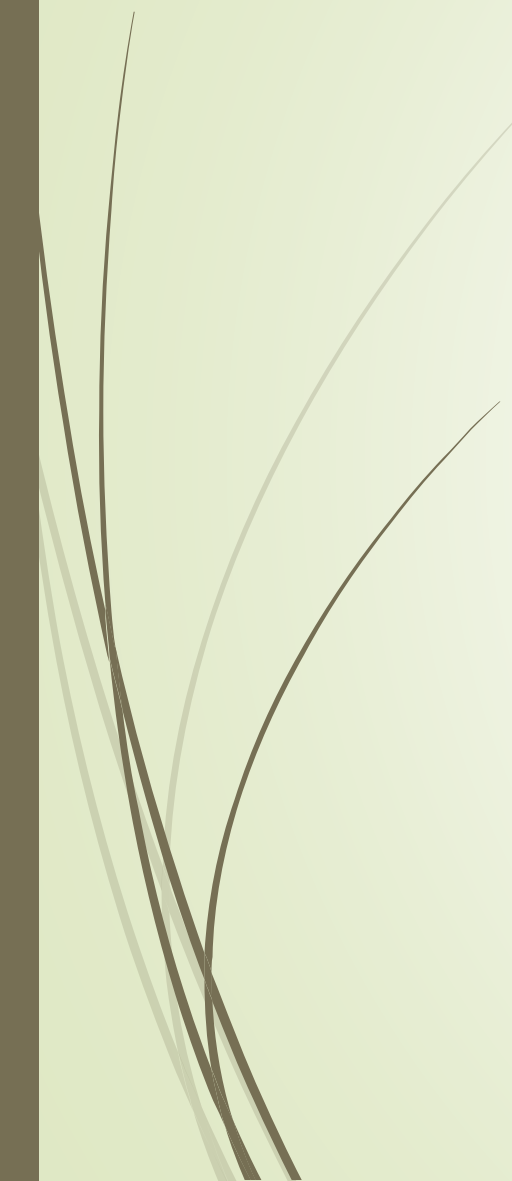


SLAVERY, SLAVE TRADING AND EMPIRE IN MEDIEVAL AND EARLY MODERN ISLAM

- ▶ ISLAMIC EMPIRE GALVANIZES WORLD AND SPREADS WEST TO SPAIN, SOUTH TO WEST AND EAST AFRICA, AND EAST TO INDIA AND SOUTHEAST ASIA IN A LITTLE OVER 150 YEARS;
- ▶ SLAVERY AND SLAVE TRADING ARE PRIMARY ENGINES OF THIS PHENOMENON
- ▶ EARLY NORMS ESTABLISHED BY “PIETY-MINDED EGALITARIANS” ARE OVERLOOKED
- ▶ UNIQUE ETHOS IN EGYPT
- ▶ EMANCIPATION A FREQUENT EVENT IN MAJOR MUSLIM CITIES REQUIRING CONSTANT REPLENISHMENT OF SLAVES
- ▶ MASSIVE SLAVE TRADES ACROSS SAHARA, ACROSS INDIAN OCEAN AND ALONG EURASIAN SILK ROAD



TAXONOMY OF SLAVERY IN MUSLIM CULTURES

- DOMESTIC SERVITUDE
 - MILITARY/NAVAL SLAVERY
 - CONCUBINAGE
 - “GANG” SLAVERY
 - “SULTANIC” SLAVERY
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SLAVES RESCUED FROM AN ARAB DHOW IN THE INDIAN OCEAN

Courtesy Beinecke Rare Book and
Manuscript Library, Yale University



“GROUP OF
‘SOUDANESE’
SLAVE-GIRLS,
RECENTLY
CAPTURED AT
CAIRO

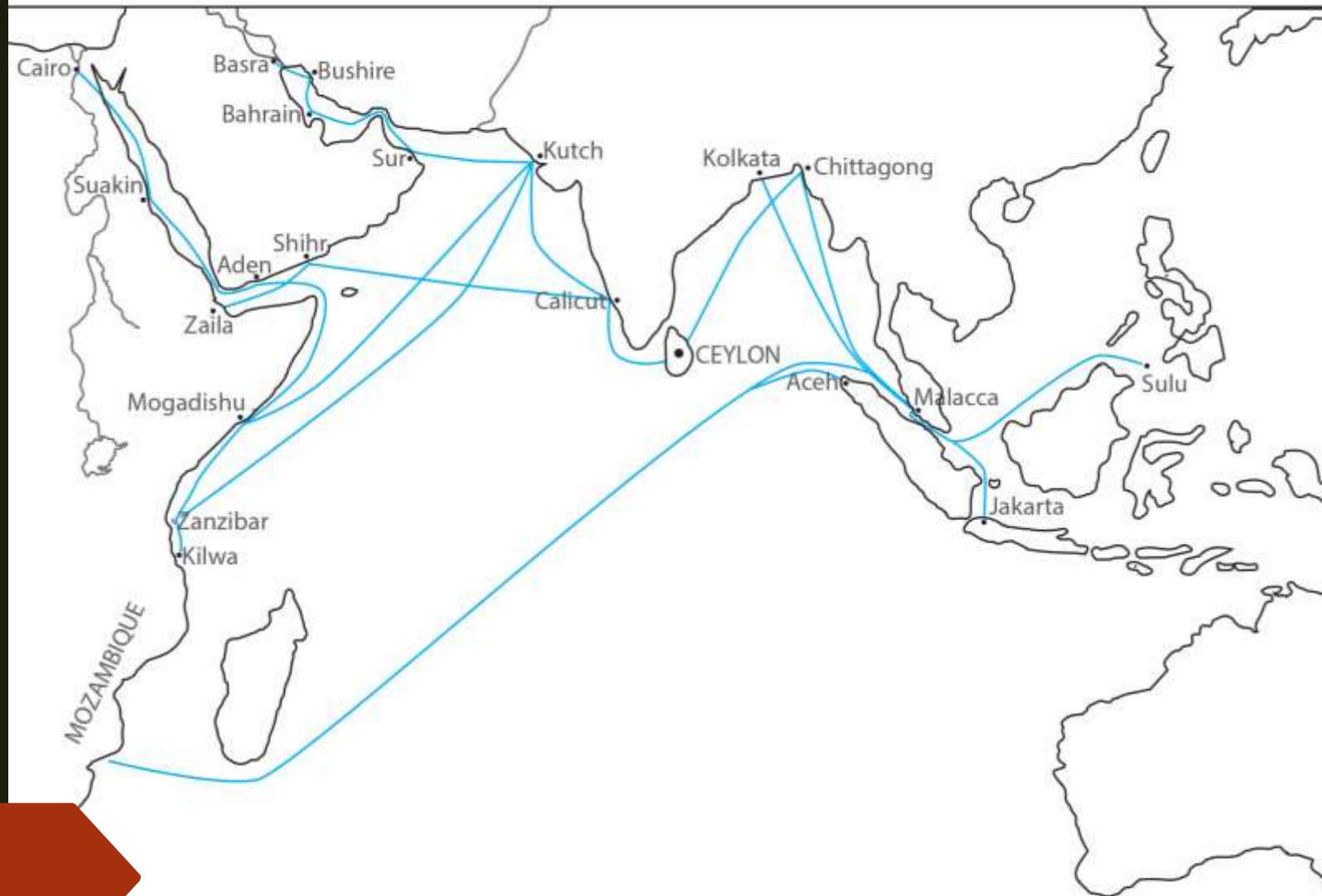
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GROUP OF SOUDANESE SLAVE-GIRLS, RECENTLY CAPTURED AT CAIRO

INDIAN OCEAN TRADE ROUTES

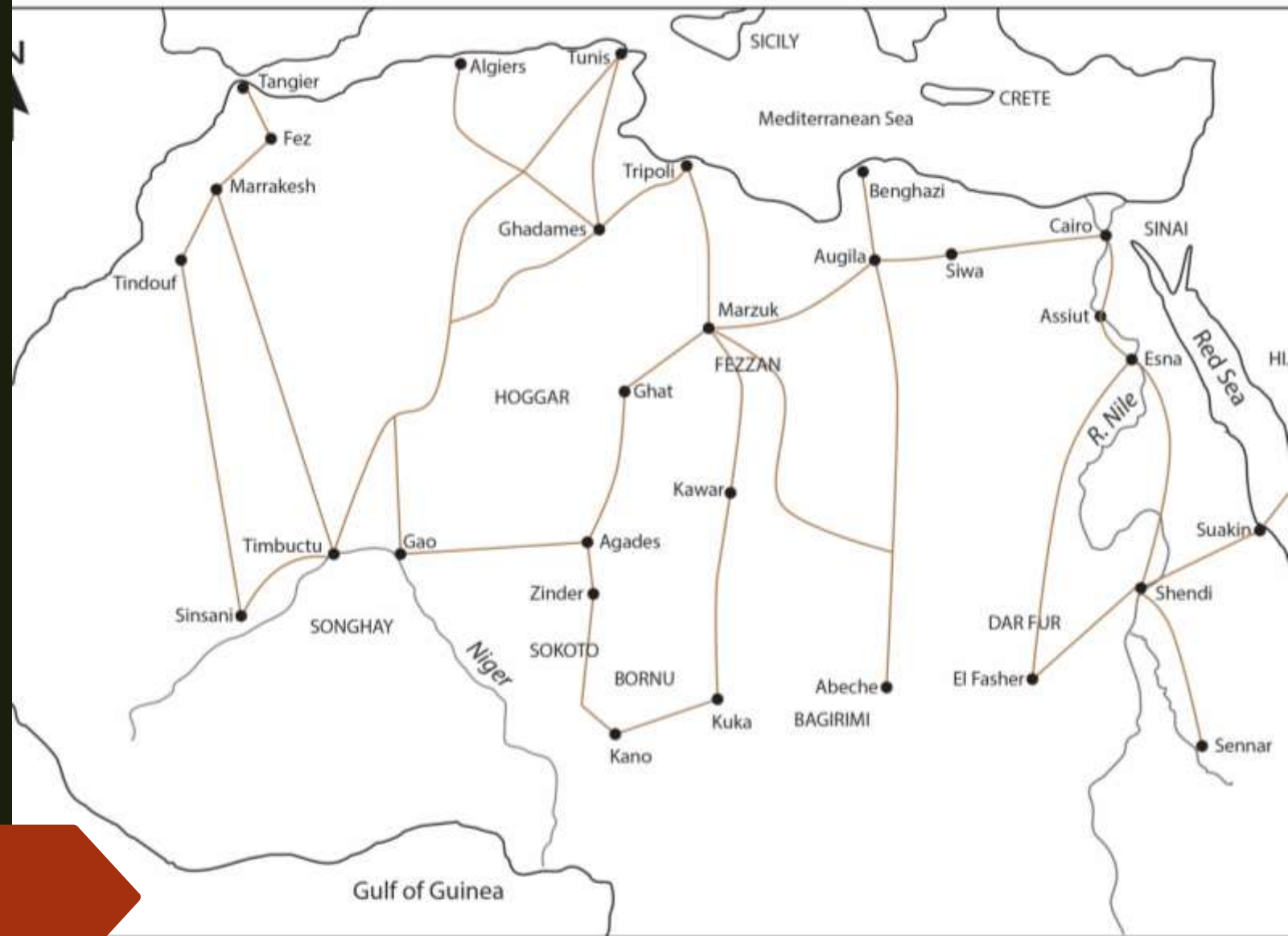
MAP BY MUJAHID KHAN



Map 4.

TRANS-SAHARAN SLAVE-TRADING ROUTES

MAP BY MUJAHID KHAN




Map 5.
Trans-Saharan Slave-Trading Routes.



20TH AND 21ST CENTURIES: THE ILLUSION OF ABOLITION

- ▶ MAURITANIA
- ▶ NORTHERN NIGERIA
- ▶ INDIA
- ▶ THE PERSIAN GULF
- ▶ DAR FUR
- ▶ THE ARABIAN PENINSULA AND THE RED SEA REGION
- ▶ SOUTHEAST ASIA
- ▶ KHADIJATOU HADJI v. REPUBLIC OF NIGER
- ▶ MASSIVE RISE OF “MODERN DAY SLAVERY” AND HUMAN TRAFFICKING
- ▶ NO INTERNALIZATION OF ANTI-SLAVERY NORMS



TOWARD AN ABOLITION OF SLAVERY UNDER THE AEGIS OF ISLAMIC LAW

- ONENESS OF GOD (*TAWHEED*) AND THE INCONSISTENCY OF SLAVERY WITH THAT CONCEPT, SEE QUR'AN 3:64
- PIETISTIC EGALITARIANISM OF EARLY ISLAM AND THE FIRST MUSLIMS (*TAQWA*)
- PRIORITARIANISM OF QURANIC AND SUNNAIC PROVISIONS ON EMANCIPATION OF "THOSE WHOM YOUR RIGHT HANDS POSSESS"
- APPLICATION OF *MASLAHA* (ALLOWING CANCELLATION OF A RULE WHEN IT IS IN THE PUBLIC INTEREST) IN LIGHT OF THE HORRIFIC AND GENOCIDAL HISTORY OF SLAVERY AND SLAVE TRADING IN ISLAMIC HISTORY AND IN LARGER WORLD HISTORY
- RECOGNITION OF CHANGING CUSTOMS OF WAR DEFINING TREATMENT OF WAR CAPTIVES