



## Does Islam permit rape of female slaves or prisoners ?

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Does Islam permit rape of female slaves or prisoners of war ? Before we answer this question we first need to clarify Islam's stance on slavery. Questions like: "...why did Allah permit slavery in the Holy Quran ?.." and "...who could be enslaved ?.." shall be discussed in the first section of this paperwork. The first thing that is important to mention is that according to Islam only non-Muslim prisoners of war could be enslaved. S. Ganjoo in his late work "Glimpses of Islamic World" states:

Islam has categorically denounced the "principle of inequality" , which is the very "foundation" of Aristotelian slavery, and has condemned the view that some are born free and others slaves and that bondage is a natural phenomenon or institution. The Holy Quran has abolished all kinds of slavery with the exception of slavery based on conquest. It emphatically declares that "...Now when ye meet in battle those who disbelieve. Then it is smiting of the necks until, when ye have routed them, then making fast of bonds ; and afterwards either grace or ransom till the war lay down down its burdens.." [ 47:4 ].

The above verse of the Quran makes it clear that Islam has approved slavery as a result of war with the disbelievers. It provides that prisoners of war may either be released on payment of ransom or even without it ; or they may be enslaved by the victors. Thus in Islam slaves are not born ; they are made and there is none who is destined by nature to be a slave or a master. Although Islam has permitted enslavement of prisoners of war, at the same time it has reduced it to the narrowest possible extent by placing certain restrictions on war, the only source of slavery: In the first place, Islam permits the enslaving of only those persons who have been made captive in a *bona fide* lawful warfare, Jihad, and directs the Muslims *to refrain from offensive war*. The Holy Quran [ 2:190 ] has advised the Muslims "Fight in the way of God against those who fight against you, but begin not hostilities. Lo ! God loveth not aggressors". In the second place, prisoners of war also cannot compulsorily be reduced to slavery. A prisoner may purchase his liberty by paying ransom just after he has been made captive. The Holy Quran has ordained that if a well-behaving slave is prepared to pay off his value to his master, this latter cannot refuse the offer, in fact he will be constrained to grant his slave opportunities to earn and save the necessary amount for obtaining manumission. The Quran [ 24:33 ] says: "And such of your slaves as seek a writing [ of emancipation ] , write it for them if ye are aware of aught of good in them and bestow upon them of the wealth of God which He hath bestowed upon you". Thus, practically, enslavement would be the last option for a prisoner of war. Lastly, Islam has laid down certain principles for benevolent treatment of the slaves and has given utmost encouragement to emancipate slaves by declaring it to be one of the meritorious acts for Muslims. The Prophet Muhammad is reported to have advised his followers to enfranchise the slaves in the name of God.. As a matter of fact, slavery according to islam, is purely an *artificial institution* ; it is a natural corollary of war. If there is no war there will be no bondage. <sup>1</sup>

1: S. Ganjoo, "Glimpses of Islamic World" [ Anmol Publications PVT. LTD. , 2004 ] , pp. 165-166

The fact that only prisoners of war could be enslaved according to Islam does not mean that Islam favored slavery, or that it wanted to keep this practice alive forever. The Quran urged Muslims to free their slaves and described the freeing of slaves as part of living a moral life [ Qur'an 90:12-18 ] and a way to make up for offenses [ Qur'an 5:90 ; 58:3 ]. These facts have led the majority of Muslim scholars today to the conclusion that the retention of slavery by Islam was a temporary measure, the ultimate aim being to abolish it. If Islam wanted to keep the practice of slavery alive for all times it would no have urged Muslims to free their slaves, nor would Allah have revealed the next quranic verse: "...And such of your slaves as seek a writing [ of emancipation ] , write it for them if ye are aware of aught of good in them and bestow upon them of the wealth of God which He hath bestowed upon you..." [ Qur'an 24:33 ]. Ibn Kathir comments on this verse:

This is a *command* from Allah to slave-owners: if their servants ask them for a *contract of emancipation*, they should write it for them, provided that the servant has some skill and means of earning so that he can pay his master the money that is stipulated in the contract. Al-Bukhari said: "Rawh narrated from Ibn Jurayj: 'I said to 'Ata', "If I know that my servant has money, is it obligatory for me to write him a contract of emancipation" He said, "I do not think it can be anything but obligatory.".... Ibn Jarir recorded that Sirin wanted Anas bin Malik to write a contract of emancipation and he delayed, then Umar said to him, "You should certainly write him a contract of emancipation." Its chain of narrators is Sahih ... [2](#)

Muhammad Asad comments:

The noun *kitab* is, in this context, an equivalent of *kitabah* or *mukatabah* [ lit. , "mutual agreement in writing" ], a juridical term signifying a "deed of freedom" or "of manumission" executed on the basis of an "agreement" between a slave and his or her owner, to the effect that the slave undertakes to purchase his or her freedom for an equitable sum of money payable in installments before or after the manumission, or alternatively, by rendering a clearly specified service or services to his or her owner. With this end in view, the slave is legally entitled to engage in any legitimate, gainful work or to obtain the necessary sum of money by any other lawful means [ e.g. , through a loan or a gift from a third person ]. In view of the imperative form of the verb "*katibuhum*" [ "write it out for them" ], the deed of manumission "cannot be refused by the owner" , the only pre-condition being an evidence - to be established, if necessary, by an unbiased arbiter or arbiters - of the slave's good character and ability to fulfill his or her contractual obligations. The stipulation that such a deed of manumission may not be refused, and the establishment of precise juridical directives to this end, clearly indicates that Islamic Law "has from its very beginning aimed at an abolition of slavery as a social institution" , and that its prohibition in modern times constitutes no more than a "final implementation" of that aim ..... [3](#)

In another quranic verse we read:

True piety does not consist in turning your faces towards the east or the west - but truly pious is he who believes in God, and the Last Day; and the angels, and revelation, and the prophets; and spends his substance - however much he himself may cherish - it - upon his near of kin, and the orphans, and the needy, and the wayfarer, and the beggars, and for the *freeing* of human beings from bondage ... [ 2:177 ]

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[2:](#) Tafsir Ibn Kathir [ Abridged ], Volume 7 [ Darussalam , 2000 ], pp. 78-79

[3:](#) Muhammad Asad, "The Message of the Qur'an" , Vol. 4 [ The Book Foundation 2003 ], p. 602

Muhammad Asad comments on this verse:

Ar-ragabah [ of which ar-rigdb is the plural ] denotes, literally, "the neck", and signifies also the whole of a human person. Metonymically, the expression *fi 'r-rigdb* denotes "in the cause of freeing human beings from bondage", and applies to both the ransoming of captives and the freeing of slaves. By including this kind of expenditure within the essential acts of piety, the Qur'an implies that the freeing of people from bondage - and, thus, the abolition of slavery - is one of the social objectives of Islam. At the time of the revelation of the Qur'an, slavery was an established institution throughout the world, and its sudden abolition would have been economically impossible. In order to obviate this difficulty, and at the same time to bring about an eventual abolition of all slavery, the Qur'an ordains in 8:67 that henceforth only captives taken in a just war [ jihad ] may be kept as slaves. But even with regard to persons enslaved in this or - before the revelation of 8:67 - in any other way, the Qur'an stresses the great merit inherent in the freeing of slaves, and stipulates it as a means of *atonement* for various transgressions [ 4:92; 5:89, 58:3 ] .. [4](#)

Dr. Tamara Sonn adds the next information in regards to the issue of slavery in Islam, see:

the Quran and the example set by Prophet Muhammad comprise the guidance Muslims need in their collective responsibility to establish justice. However, following that guidance is not a simple matter of imitation. The great challenge lies in the fact that just as circumstances changed during the lifetime of Prophet Muhammad, circumstances continue to change, and that requires flexibility in determining ways to implement God's will. The most traditional interpreters might believe that following the Prophet's example means keeping society just as it was in the Prophet's time in Medina. For them, the challenge would be to prevent social change. The majority of Muslims, however, believe that the model established in the Quran and the Prophet's example describes ideals of human dignity and justice, and how they were maintained in the circumstances that existed during the Prophet's lifetime. Therefore, it is necessary to distinguish between the eternal ideals and the changeable and contingent circumstances. It is necessary to distinguish between prescriptions and descriptions so that the principles may be applied in new circumstances. For example, the Quran provides a significant amount of legislation concerning the treatment of slaves. It allows the common practice of concubinage, but demands that slave women not be forced into sexual relations [ 24:33 ]. The Quran acknowledges that slaves do not have the same legal standing as free people ; instead, they are treated as minors for whom the owners are responsible. But it recommends that unmarried Muslims marry their slaves [ 24:32 ] , indicating that it considers slaves and free people morally equal. It also instructs Muslims to allow their slaves to buy their freedom, and even to help them pay for it if possible [ 24:33 ].The Quran clearly recognizes that slavery is a source in inequity in society, since it frequently recommends freeing slaves, along with feeding and clothing the poor, as part of living a moral life [ 90:12-18 ] and a way to make up for offenses [ 5:90 ; 58:3 ]. Yet despite its overall emphasis on *human dignity* and *equality*, the Quran does not abolish *the institution of slavery*. As in the days of the Hebrew Bible, slavery was an integral part of the economic system at the time the Quran was revealed ; abolition of slavery would have required an "overhaul" of the entire socioeconomic system. Therefore, instead of abolishing slavery outright, virtually all interpreters agree that the Quran established an ideal toward which society should work: a society in which no one would be enslaved to another. Therefore, although slavery was permitted in the Quran, *it is now banned in Muslim countries*. The principle demonstrated in this example is that there is a distinction between the reality of legal slavery in the Quran, and the moral recommendations concerning slavery. The former is considered a contingent circumstance, *able to be changed*. The latter reflects the eternal model of human dignity. At the time of the early Muslim community, the *immediate emancipation* of all slaves *would have caused economic chaos* – which obviously would not have been conducive to Islamic goals of well being for all people. But the ideals toward which the community should strive were clearly set forth in this case. Applying the ideals in the modern world required the *abolition of slavery*, a goal that as largely been achieved in the Muslim world. [5](#)

4: Muhammad Asad, "The Message of the Qur'an" , Vol. 1 [ The Book Foundation 2003 ] , p. 46

5: Dr. Tamara Sonn, "A brief History of Islam" [ Blackwell Publishing, 2004 ] , pp. 15-17

## Relations with female slaves

In the previous section we have clarified Islam's stance on slavery [6](#). In this section we shall discuss the next issue: "...Did Islam permit sexual relationships with female slaves [7](#) [ after they had been captured in a *lawful* war ]..“ ? If yes, the next additional questions need to be addressed: "...What are the rules concerning a woman who is captured *together* with her husband..“ ? [ was a Muslim in this situation still entitled to have relationships with the captured woman ? ] and: "...Did Islam permit Muslims to rape their female slaves..“ ? In regards to the first question, the Qur'an states that legal intercourse can only occur within a *heterosexual marriage* [8](#) , or between a man and his female slave:

Successful indeed are the believers; Who are humble in their prayers ; Who shun vain conversation ; Who pay the zakat ; Who guard their chastity, Except from their wives and what their right hands possess [ female slaves ], for they are not to blame. But whoever seeks what is beyond that, those are *transgressors* [9](#)

The above verse demonstrates that the Holy Qur'an permitted sexual relationships between a male and his female slave. Each soldier was entitled to have relations "only" with the slave girl over which he was given the "right of ownership" [ after the distribution of the booty ] and "not" with those slave girls that were not in his possession. This "right of ownership" was given to him by the Head of the Islamic State [ the "Ameerul-Mu'mineen" ]. Due to this right of ownership, it became lawful for the owner of a slave girl to have intercourse with her. Maulana Muhammad Imran states:

Misconception exists in the West..as to *concubines*. The term applies only to women prisoners of war, who are neither exchanged or ransomed by the enemy. The State can set these prisoners free without any condition. Where this is not in the interest of the State, instead of sending them to concentration camps the State allots or hands over such women to individuals, and the woman becomes the sole responsibility of the man ...Abu Ala Maudoodi, a noted scholar, explains the Islamic view-point on this subject in his commentary: "The meaning of the Qur'an" [ pp. 112-113 ] : As there exist many misunderstandings in the minds of people concerning slave girls taken as prisoners of war, the following should be carefully studied: [ 1 ] it is not lawful for a soldier to have conjugal relations with a prisoner of war as soon as she falls into his hands. The Islamic Law requires that all such women should be handed over to the government, which has the right to them free or to exchange them with the Muslim prisoners in the hands of the enemy or distribute them among the soldiers. It is lawful for a soldier to cohabit only with that woman who has been formally given to him by the government. [ 2 ] Even then, he shall have to wait one monthly course before he can cohabit with her in order to ensure whether she is pregnant or not ; otherwise it shall be unlawful to cohabit with her before delivery. [ 3 ] It does not matter whether the female prisoner of war belongs to the people of the Book or not. Whatever her religion, she becomes lawful for the man to whom she has been given. [ 4 ] None but the one whom the slave girl is given has the right to "touch her". The offsprings of such a woman from his seed shall be his lawful children and shall have the same legal rights as are given by the Divine Law to children from one's loins. After the birth of a child she cannot be sold as a slave girl and shall automatically become free after her master's death. [ 5 ] If the master *marries* his slave girls with another man, he forfeits his *conjugal* rights over her [10](#)

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- [6](#): For more info on this topic see: Maulana Muhammad Imran, "Distortions about Islam in the West" [ Malik Sirajuddin, 1979 ], pp. 160-168  
[7](#): Women captured in war would automatically become slaves, unless they were set free by the State.  
[8](#): In the Qur'an we read that Lut told his people "...What ! Of all creatures, do you approach males and leave the spouses whom your Lord has created for you ? Surely you are people who transgress ! .."[ 26: 165-166 ]  
[9](#): Qur'an 23:1-7  
[10](#): Maulana Muhammad Imran, "Distortions about Islam in the West" [ Malik Sirajuddin, 1979 ], pp. 138-139

To sum up a Muslim was only permitted to *touch* a female slave who had been formally given to him by the head of Islamic state [ after the distribution of the booty ] . In addition he was required to wait *one monthly course* before he could *cohabit* with her. This law is derived from the next hadith:

The Prophet is reported to have said: "...it is *not* permissible for a man who believes in Allah and the Last Day to have intercourse with a captured woman until he has established that she is not pregnant.." [11](#)

The next topic that needs to be addressed is the law concerning a woman who is captured together with her husband by the Muslims. Will their marriage-tie continue after capture ? Is it permissible for a Muslim to *touch* a woman who is captured together with her husband [ after the distribution of the booty ] ? An answer to all these questions is given by Imam Abu Hanifa. Shaybani reports:

I [ Shaybani ] asked: "if the army captured a *married women* a day or so before her husband, do you think that marital status between the two would remain valid ?" 243. He [ Abu Hanifa ] replied: "Yes" 244. I asked if the span between their respective captures was either equivalent to three menstrual periods or if [ the wife ] had actually experienced three menstruations and had adopted Islam, but before the army left the territory of war her husband was [ also ] captured and became a Muslim, do you think that their marital status would remain valid ? 245. He replied: "Yes" 246. I asked: "Why ?" 247. He replied: "Since they had not yet been taken to the territory of Islam their [ marital ] status would be regarded as if they had been captured together". [ Tahawi, "Mukhtasar", p. 286 ] 248. I asked: "If the husband were captured before the wife and she after him, do you think their [ marital ] status would remain unchanged as you have described it ?" 249. He replied: "Yes" 250. I asked: "If one of the two - husband or wife - were captured and taken to the territory of Islam and the other were captured later ?" 251. He replied: "Their marital status would no longer be valid" 252. I asked: "Why ?" 253. He replied if one of the two [ spouses ] were taken to the territory of Islam before the other, the wedlock would be broken 254. I asked: "Why is that so ?" 255. He replied: if the wife had been allotted to the share of one [ of the Muslims ] and she became a Muslim, do you not think that he would have the right to have intercourse with her or to marry her if he so desired ? 256. I said: "yes indeed" 257. He said: "Do you not think that the wedlock was dissolved ? If her husband , who was in the territory of war, had still preserved the marital bond with her and her wedlock with him were not terminated, the [ Muslim ] would have no right to have sexual intercourse with her or to marry her, but she would be lawful to the latter if her wedlock with her [ former ] husband had been broken. It has been related to us that God's saying, "Do not marry...married women, except those whom your right hand possesses [ i.e. slave women ]", was revealed in connection with a woman who had a husband, was taken as a captive , and whose [ new ] master had intercourse with her, after waiting one menstrual period [ to be sure she was not pregnant ]. And it has been related to us from the Prophet that he prohibited [ men ] from intercourse with pregnant women taken as *fay'* until they have been delivered and he prohibited [ men ] from having intercourse even with women who are not pregnant until their clearance from pregnancy is established by one menstrual period .... [12](#)

In other words the marriage contract between husband and wife is terminated because of the separation of husband and wife, one being in the "territory of Islam" [ Dar al-Islam ] and the other in the "territory of war" [ Dar al-Harb ] , not because of capture. Differences in residence between the two constitutes cancellation of the marriage contract [ *nikah* ] even if the period of separation is short [13](#). It is interesting to note that Shaykh Muhammad Ibn Abdul Wahab held a similar view, see:

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[11](#): Narrated by Abu Dawood, 2158 ; classed as hasan by Shaykh al-Albaani in Saheeh Abi Dawood, 1890.

[12](#): See: "The Islamic Law of Nations: Shaybani's Siyar", translated by Majid Khadduri [ The Johns Hopkins University Press , 2001 ] , pp. 116-118

[13](#): See: Sarakhsi, "Kitab al-Mabsut" [ Cairo 1324 / 1906 ] Vol. V , pp. 50-51

Ibn Abd al-Wahhab's thoughtful consideration of the question of what to do with captives extended so far as to address the question of what is to be done when more than one member of a family is captured. Specifically, if both the husband and the wife or both parents and children are taken as captives, what are the repercussions of captivity for family relationships? Ibn Abd al-Wahhab broke with the other law schools, most notably the Malikis and Shafiis, in asserting that captivity does not result in abrogation of marital or parental bonds but rather that such bonds remain intact and must be respected even in matters of religious upbringing for the children. He cited as evidence the example of Muhammad following the Battle of Badr, when Muhammad did not abrogate the marriage bonds of his captives ... [14](#)

To sum up, if a woman was captured together with her husband, their marriage-tie would continue after capture. As Imam Abu Hanifa pointed out: "...if one of the two [ spouses ] were taken to the territory of Islam *before the other*, the wedlock would be broken.." [15](#) In other words if both were captured together and at the same time taken to the territory of Islam, no divorce took place. In the last case it was forbidden for a Muslim to "touch" such a female slave [ who together with her husband was allotted to him by the Head of the Islamic State ]. Some jurists argued that if a Muslim bought them from their appointed master, he could divorce them, and cohabit with the female slave after one menstrual period. This view is however proven wrong by the next narration:

Ibn 'Abbas said: "A man came to the Prophet and said: 'O Messenger of Allah, my master married me to his slave woman, and now he wants to separate me and her.' The Messenger of Allah ascended the pulpit and said: 'O people, what is the matter with one of you who marries his slave to his slave woman, then wants to separate them? Divorce belongs to the one who takes hold of the shin [ i.e. , her husband ] [16](#)

In Islam only a husband can divorce his wife. The majority of scholars have also opposed the view that the sale of a married female slave automatically results in her being divorced. Ibn Kathir states:

A number of the early authorities view this verse [ 4:24 ] as evidence that the sale of a female slave means her divorce. This is related of Ibn Mas'ud, Ubayy b. Ka'b, Jabir b. 'Abd Allah, Ibn Abbas, Sa'id b. al-Musayyay and Hasan al-Basri. The majority oppose these, citing an anecdote about Burayra to the effect of her having been sold and then giving a choice of ending or maintaining her marriage. If sale of her meant her divorce, then she would not have been given a choice. We have discussed this issue in detail and sufficiently in our Tafsir [ Exegesis ] . And we will refer to it again ..in .. al-Akham al-Kabir. [17](#)

It is also reported that Imam Ibn Hanbal and Ibn Rahwayh both stated that if a married female slave is sold, her sale does not result in divorce. [18](#) To sum up, if a woman was captured together with her husband by the Muslims [ in war ], and taken together with her husband to the territory of Islam, their marriage tie would continue [ even if she or her husband were sold by their master to someone else ]. As a result of this it was forbidden for a Muslim to *touch* such a female slave. [19](#)

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[14](#): Natan J. Delong-Bas, "Wahhabi Islam: From Revival and Reform to Global Jihad" [ Oxford University Press US, 2004 ], p. 208 ; See also Ibn Abd. Al-Wahhab, "Kitab al-Jihad" , pp. 368-369.

[15](#): See: "The Islamic Law of Nations: Shaybani's Siyar" [ The Johns Hopkins University Press , 2001 ] p. 117

[16](#): Ibn Majah 2081 ; classed as hasan [ good or acceptable ] by Shaykh al-Albaani in Irwa' al-Ghaleel, 7/108.

[17](#): Ibn Kathir, "The life of the Prophet Muhammad" [ Garnet Publishing Ltd , 2000 ], Vol. III , p. 461

[18](#): See: "Chapters on Marriage and Divorce: Responses of Ibn Hanbal and Ibn Rāhwayh", translated with introduction and notes by Susan Ann Spectorosky [ University of Texas Press , 1 June 1993 ], p. 38

[19](#): It is narrated that Imam Ahmad was asked about a man who buys a female slave who tells him she has a husband. He said, "She is forbidden to him" , i.e. he may not have sex with her [ Source: Ibid. p. 81 ]

## Is Rape Permissible ?

In the previous section we have clarified the law concerning a married woman who was captured by the Muslims in a lawful war [ jihad ]. In this section we shall address the next question: “..Did Islam permit masters to rape their female slaves ? ..” Before we answer this question it is first important to mention the effects of rape on a woman. One source states: “...Rape is a particularly vile form of assault, which often inflicts long-term emotional *harm*..” [20](#) In other sources we read:

Sexual violence has a profound impact on *physical* and *mental* health. As well as causing physical injury, it is associated with an increased risk of a range of sexual and reproductive health problems, with both immediate and long-term consequences. Its impact on mental health can be as serious as its physical impact, and may be equally long lasting... Sexual violence includes rape, defined as physically forced or otherwise coerced penetration – even if slight – of the vulva or anus, using a penis .. or an object .. [21](#)

Women are not merely sexual resources whose wants and interests can be ignored – and woman do not secretly want to be raped. Like men, women have an important interest in “not” being used or interfered with, hence being raped is a “*harm*”. Even if it did not hurt the victim physically or psychologically or tend to bring about any further harms it would still be a *harm* in and of itself .. [22](#)

The above sources confirm that rape harms a woman in various ways. Does Islam permit such an act ? An answer to this question is given in the next *authentic* hadith narrated by Imam Ahmad, see:

The Messenger of God is reported to have said: ‘There is to be no harm done or reciprocation of harm’ [23](#)

The above command is general and shows us that Muslims are not allowed to harm any slave or free human being. The narration demonstrates that it was not permissible for a master to rape his female slave, since rape would harm the woman in various ways. Polemics against Islam have rejected this conclusion. They argue that various Muslim scholars have interpreted the narration to mean that causing harm is forbidden if there is no valid reason. For example, in the punishment of a criminal, there would be harm but the reason is valid. The aim here is to bring justice. In bringing justice, if there is any harm to a criminal, then this harm is legal and allowed. In the light of these given facts polemics against Islam have argued that when a female slave refused her master’s request for sexual intimacy, she could be forced into sexual intercourse [ i.e. harmed ], since Islam instructed a female slave to obey her master in matters that do not contradict the shari’a. In other words they argued that disobedience of a female slave to her master’s request for sexual intimacy constituted a valid reason for him to harm her by rape. Is this statement correct ? In order to find an answer to this question we need to find out if the prophet allowed a husband to force his own wife into intercourse. In Islam the wife is commanded to obey her husband in his request for sexual

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[20](#): Zsuzsanna Adler, “Rape on Trial” [ Routledge, 1987 ], p. 136

[21](#): World Health Organization, “World Report on Violence and Health” , edited by Etienne G. Krug [ World Health Organization, 2002 ], p. 149

[22](#): Alan Soble, “The Philosophy of Sex: Contemporary Readings” [ Rowman & Littlefield, 2002 ], p.305

[23](#): Ahmad 5/326-327, 313 ; Ibn Maaajah no. 2340 , classed as sahih by al-Albaani in Irwa’al-Ghaleel 896

intimacy [24](#) , unless she has a valid reason. [25](#) In other words Islam did not differentiate between a [ free ] wife and a female slave in this “specific” aspect. Both were commanded to obey their husband / master in his request for intercourse. [26](#) Therefore we can safely say that if a husband was not allowed by Islam to force his wife into intercourse, then he was also not allowed to force his female slave into intercourse. In Sahih Bukhari we find the next hadith related to this topic, see:

The Prophet said: “..If a man calls his wife to his bed [ i.e. to have sexual relations ] ; and she refuses and causes him to sleep the night in anger [27](#) , the angels will curse her till morning..” [ al-Bukhaari 4794 ]

Shaykh Muhammad ibn Adam al-Kawthari comments on the narration :

The Hadith mentions that, “..the husband spends the night in anger or being displeased..”, which clearly shows that he must restrain himself from forcing himself over her. Had this not been the case, the Messenger of Allah [ saaws ] would have advised the husband to gain his right in a forceful manner. [28](#)

Thus, in the scenario given by our Prophet, in which a woman rudely pushes back her husband [ and as such causes him to sleep the rest of the night in anger ] , the option of coercion and force are not even considered, let alone legitimized or condoned. The narration clearly demonstrates that denial of a wife to her husband’s request for sexual intimacy does not legalize marital rape or

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- [24:](#) In Islam the husband is also commanded to obey his wife in her request for sex. In Sahih Ibn Hibban we read that the wife of 'Uthman ibn Madh'oon complained to the Prophet that her husband had no need for women. As a result the Prophet immediately went to 'Uthman and told him: “..your wife has a right upon you..” [ Sahih ibn Hibban, Vol. 2 Mu'assasah al-Risalah edition, p. 19 ]. Ibn Taymiyyah stated: “...It is obligatory for the husband to have intercourse with his wife as much as is needed to satisfy her, so long as this does not exhaust him physically ...” [ Ibn Taymiyyah, "Al-Ikhtiyaaraat al-Fiqhiyyah" , p. 246 ]
  - [25:](#) A husband is not allowed to call upon his wife when she is ill, overtired, emotionally drained or not in the appropriate frame of mind. etc. [ Fataawa az-Zawaaj wa Ishratun-Nisaa, p. 103 ]. To have intercourse with a wife in these conditions would cause her harm, which the prophet forbade [ Ibn Maajah no. 2340 ]. In addition Dr. Shehzad Saleem writes: “..the basis of refusal by the husband or wife must also be taken in consideration. If either of them is *tired, sick or simply not in the proper mood* and in the appropriate frame of mind then it does not entail any wrath of the Almighty. It is only when a spouse starts to deliberately evade such natural needs of the other that the attitude becomes questionable..” [ Shehzad Saleem, “Islam and Women: Misconceptions and Misperceptions” in: 'Renaissance', February 2005, Volume 15, Issue 2 ]
  - [26:](#) Although we do not read in a single reliable hadith or quranic verse that a slave girl was required to obey her master in his request for intercourse, for the sake of argument we assume that this was the case here.
  - [27:](#) It is important to mention that the hadith in question only considers a wife's rejection that results in anger on behalf of the husband as sinful. If the husband is not angry at her, she is not cursed. What appears in this hadith is the case of a wife who deliberately rejects her husband's request for intimacy [ without any valid reason ] in a rough and rude manner [ and as such causes him anger ] . The expression “..and causes him to sleep the night in anger...” confirms this meaning of the text. The hadith lays emphasize on the importance of fulfilling one's sexual needs in marriage. If a wife declines her husband's desire to make love with her, he may be psychologically affected and look for pleasure outside the bonds of marriage The hadith therefore indicates that a wife should respond *positively* to her husband's request. Her denial to intimacy should give a hint to the husband that she is not physically or emotionally ready for that. The husband should be of good reason and understand her situation in the light of Allah's command to live just and fair with one's wife [ Qu'ran 4:19 ]. If the husband is unjust towards his wife and still gets angry at her despite her refusal with valid reason to his request , then there is no blame worthy on the women and she is not [ temporarily ] cursed. However if the wife *constantly deliberately* without any valid reason refuses her husband's request for intimacy, or responds negative to his request in a *rude or arrogant* way [ that cause him to sleep the night in anger ] , then she would be sinful. The hadith refers to these women.
  - [28:](#) Fatwa: “Can a Wife Refuse her Husband's call to bed ? If not, isn't it like rape ?” [ see: sunnipath.com ]



other acts of violence ! Therefore denial of a female slave to her master's request for sexual intimacy would also not legalize rape or other harmful acts against her [ like violent beatings ]. [29](#) The

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- 29: In Islam it is forbidden to hit *any* woman in a violent way, nor is it in Islam allowed to hit anyone on the face [ see: Muslim 3/1280 ; al-Fath 5/216 ]. It is also reported to that the Messenger of Allah said: "...Do not hit the female servants of God.." [ Sunan Ibn Majah, Beirut: Dar al-Kutub al-Ilmiyyah, vol. 1 p. 638 ]. It is interesting to note that this instruction was given by the Prophet after the revelation of ayah 34 in Surah an-Nisa [ see: Malakah Yusuf Zitar, "Mawsu'at Al-Zawaj Wa Al- 'Alaqah Al-Zawjiyyah Fi Al-Islam Wa Al-Shara'I' Al-Ukhra Al-Muqaranah" ( forthcoming Cairo ) , at 667 ]. Only once made the Prophet an exception to this general rule. It is reported Umar [ ra ] loudly complained to the Prophet that the women were rebelling against their husband. So the prophet gave a dispensation to hit them within the limits of the shari'a. However, this was not the end of the episode. The upshot was that the following morning the Prophet was confronted by no less than seventy female Companions who had organized themselves into a deputation and turned up outside his house, all of whom had been ill-treated by their supposedly pious husbands [ Abu Dawud 880 ]. In other words a lot of husbands had clearly abused the prophet's dispensation by violating the Islamic teachings [ not to abuse and harm others etc. ] and the sunnah [ not to be harsh or rude ]. The Prophet was so outraged on the women's behalf that he came out and summoned the Companions to hear a public sermon telling of the many women who had informed his family of the behaviour of their husbands, berating the men who had behaved thus, shaming them. "They are hardly the best of you!" he cried. [ Abu Dawud 880 ].] Ibn Sa'd narrates that the prophet also said during this speech: "...I cannot bear the thought of a man with the veins of his neck swelling with anger against his wife, fighting her ! .." [ see: "Women of Madina" , Aisha Bewley's translation of Ibn Sa'd vol 8, p.144 ]. Another version adds that the Prophet then revoked the dispensation. [ See: Sahih Ibn Hibban 9:491 ]. The fact that the Prophet rebuked the men and revoked the dispensation, shows us that the tradition: "...Do not hit the female servants of God.." still carries a lot of weight in Islam. Since slave women were also the female servants of God, it turns out that the Prophet was strongly against the act of hitting one's female slave. The Sunnah of the Prophet shows us that it was only permissible in certain situations to hit a female slave lightly, i.e. with a *siwak* [ a soft small fibrous twig that was used as a tool to clean one's teeth with in the Arabian Peninsula ]. Evidence for this view can be found in a hadith narrated by Umm Salamah [ one of the prophet's beloved wives ] . Umm Salamah said, "...Once when the Prophet was in my house with a *siwak* in his hand, he called my bond-maid, but she did not answer. This made him angry. So I went to fetch her and found her playing [ with an animal ] . I said, 'You are playing and the prophet is calling for you ? ' The bondmaid said to the Prophet, 'By God. Who justly made you His messenger, I did not hear you'. The Prophet then said to her, 'had it not been for my fear of being called to account, I would have hit you with this *siwak*.." [ see: Muhammad Hamad Khidr, "Human Rights in Islam" , Dar Koder 1988, p. 52 ; Kanz al-'Ummal 39820, 39821, 39829 ]. Notice how the Prophet even refrained from hitting his wife's slave girl with a *siwak* [ the ancient toothpick ] out of fear for Allah ! In addition it is important to note that the Messenger of Allah in his speech that he delivered at the Farewell Pilgrimage, stipulated that a husband was only permitted to hit his wife very lightly [ with a *siwak* or something alike ] in case she was guilty of a very immoral or lewd act close to adultery ! [ see: Jam'a al-Fawa'id, kitab al-Iman, akham al-Li'an , ( Meerut, n.d. ) , vol. 1 , p. 14 ]. The fact that a husband was only allowed to hit his wife softly for such a serious sin and grave offense , makes it very unlikely that it was permissible for a Muslim to beat his female slave *violently* for minor offenses or merely an act of disobedience. Such a view would moreover contradict the narration: "...Do not hit the female servants of God..". In other words all these facts clearly confirm our conclusion that a master in certain situations could only hit his female slave very lightly with a *siwak* or something alike. If a master could not accept the decision of his female slave not to have sex with him, he could sell her to another person [ who would have no problem with the choice of the female slave to refrain from sex with her master ]. The Prophet is reported to have said: "...and your slaves, see that you feed them such food as you eat yourselves and dress him with what you yourself dress. And if they commit a fault which you are not inclined to forgive then *sell them*, for they are the servants of Allah and are not to be tormented.." [ Ibn Sa'd, "al-Tabaqatul Kabir" , Vol. II:1 , Leiden: E.J. Brill, 1912 , p. 133 ]. In addition it is interesting to mention the next famous hadith: "...A man came to the Prophet and said: "O, Messenger of Allah, how many times should we excuse and forgive the servant?" He kept silent then the man repeated the question and the Prophet kept silent, then he asked for the third time and the Prophet answered, "Excuse and forgive him *seventy* times every day.." [ Abu Dawud, No. 5164 ]. In another narration it is reported that the Prophet said: "...Let me tell you who your evil ones are. They are those who eat alone, beat their slaves, and withhold their help.." [ Al-Tabrizi, *Mishkat Al-Masabih*, S. M. Ashraf 1970, p. 718 ]. As for the reports narrated by Tabari, Ibn Ishaq and Ibn Hisham, in which it is said that Ali during the "affair of the lie" gave Barira [ Aisha's slave girl ] a violent beating in front of the Prophet, these versions of the story are unreliable. A reliable version of the same story is narrated by Bukhari in his Sahih, in which no such beating is mentioned. Barira was only rebuked. [ Bukhari, v. 48 n. 829; Dahabi, *Ta'rik magazi*, p. 275 ]

hadith [30](#) shows us that a man was not allowed to gain his right to intercourse by force. All these facts clearly proof that a master was not allowed to rape his slave girl. In another hadith we read:

The Messenger of God said: "One who treats badly those under his authority will not enter Paradise" [31](#)

Since the Prophet viewed rape as a horrible crime [32](#), it is clear that from an Islamic point of view a master who forced his female slave into sex, would be seen as someone who treated the people under his authority badly. At the Farewell Pilgrimage the Prophet again exhorted the people to treat their slaves well and respectful. Ibn Sa'd in his classic work "al-Tabaqatul Kabir" narrates:

The Messenger of God is reported to have said: "...And your slaves, see that you feed them such food as you eat yourselves and dress him with what you yourself dress. And if they commit a fault which you are not inclined to forgive then *sell them*, for they are the servants of Allah and *are not to be tormented*.." [33](#)

The above message is very powerful, it teaches us that a master was not allowed to torment his female slave, even if she committed a big fault [ i.e. a wrong act or an act that displeased her master a lot ]. Since rape is an act of torment [34](#), we can see that the hadith demonstrates us that a master could not, under any circumstances, rape his female slave ! In addition we read in the Holy Qur'an:

Worship Allah, and associate nothing with him. And do kindness [ Ehsan ] to your parents, and to your close kindred, and orphans, and the needy, and to the neighbor who is of kin, and to the neighbor who is not of kin, and the fellow-traveler, and the wayfarer, and those *whom you rightfully possess* [ 4:36 ]

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- 30:** Since the hadith in question only mentions the wife , it is most likely that the angels would not curse the female slave [ in the scenario given by our Prophet ] , but only the wife. A reasonable explanation for this view is that it would be a greater offense for the wife to refuse her husband's request for sexual intimacy in a rude manner [ and as such causes him to sleep in anger ] , since she married him out of her own free will, and agreed to the conditions that she and her husband stipulated in their marriage contract. In Islam it is one of the primary and most important duties of spouses in marriage to fulfill the sexual needs of each other [ in order to protect one's partner from *adultery* ]. On the other hand not a single authentic narration or quranic verse states or indicates that it was the primary or most important duty of a female slave to fulfill the sexual needs of her master [ this was clearly the primary duty of his wife ]. The primary duties of a female slave were clearly household tasks or the performance of agricultural work. For this reason it is most likely that the angels would not curse the female slave [ in the scenario given by our Prophet ] , but only the wife. Additional support for this view can be found in the fact that we read in the Holy Qu'ran that an immoral slave woman would only receive half the punishment that would apply to a free woman in a similar case [ see: Holy Qur'an 4:30 ].Therefore it is very likely that Allah was also more tolerant or mild towards a female slave in the scenario given by our Prophet in the hadith under discussion [ see al-Bukhaari 4794 ] . Whatever the case may be, the hadith still shows us that a man could *not* gain his right to intercourse by force.
- 31:** See: Al-Tirmidhi Hadith 3358 ; see also Al-Tabrizi, "Mishkat Al-Masabih" [ S. M. Ashraf 1970 ] , p. 716
- 32:** In a hadith it is reported that the Prophet ordered a rapist to be stoned to death [ Abu Dawud 4379 ]
- 33:** Ibn Sa'd, "al-Tabaqatul Kabir" , Vol. II:1 [ Leiden: E.J. Brill, 1912 ] , p. 133
- 34:** Robin Morgan states: "...Rape has always been an act of torment..." [ See: Robin Morgan, 'Rape is frequently Used as a Weapon of War' in: Mary Williams ,*Sexual Violence: Opposing Viewpoints*, Greenhaven Press, 1997, p. 53 ; See also Robin Morgan, "Isolated Incidents?", *Ms. Magazine* , March / April, 1993 ]

In the above verse we read how Allah instructed Muslims to treat their slaves with Ehsan, i.e. the excellence of kind and just treatment. [35](#) In addition we read that Ibn Kathir in his tafsir comments:

Allah said, "and those [ slaves ] whom your right hands possess" , this is an order to be kind to them because they are weak, being held as captives by others. An authentic Hadith records that during the illness that preceded his death, the Messenger of Allah continued advising his Ummah: "... [ protect ] the prayer, the prayer, and [ those slaves ] whom your right hands possess.." [ an-Nasa'i in *al-Kubra* 4:258 ] [35](#)

As Ibn Kathir points out, Muslims were told in the Qu'ran to treat their slaves or prisoners of war kindly, since these people were in a weak or vulnerable position [ as prisoners of war ]. In other words Muslims were not allowed to abuse their authority or power over their slaves or prisoners of war by this quranic verse . This given fact demonstrates that a master was not allowed to force his female slave or prisoner into sexual intercourse. Rape would clearly violate the law of Allah in the verse under discussion [ 4:36 ]. We also read that the Prophet prohibited Muslims to torture others:

Urwa reported from his father that Hisham bin Hakim b. Hizam happened to pass by some people in Syria who had been made to stand in the sun and olive-oil was being poured upon their heads. He said, "What is this ?" it was said, "They are being punished for not paying the Kharaj" Thereupon he said, "I heard the Messenger of Allah say, "Allah will punish those who torment people in this world" [36](#)

The fact that the Prophet prohibited Muslims to torture others, again confirms that a Muslim was not allowed to rape his female slave or prisoner, since rape is a *sexual form of torture*. [37](#) The Prophet cared so much for the well-being of slaves in the community, that he even instructed masters to call their slaves with *decent* names [ in order to prevent that people would look down upon them ] , see:

Abu Huraira reported Allah's Messenger [ may God bless him and grant him peace ] as saying: None of you should say: My bondman and my slave-girl, for all of you are the bondmen of Allah, and all your women are the slave-girls of Allah; but say My servant, my girl, and my young man & my young girl [38](#)

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[35](#): Mufti M. Mukarram Ahmed and Muzaffar Husain Syed in the "Encyclopaedia of Islam" state: "...The essence of Islam is not only to serve Allah, but also to serve our fellow human beings. It also calls for achieving a level of Ehsan, i.e. the excellence in our attitude and practice. This is a wider and more comprehensive concept than the Western concept of: 'Love God and love your neighbour'. The above verse [ 4:36 ] commands us to do Ehsan not only with parents but with all persons whom we come across in our lives.." [ Source: "Encyclopaedia of Islam", Vol. 3 ( Anmol Publications PVT. LTD , 2005 ) , p. 58 ]

[35](#): Tafsir Ibn Kathir [ Abridged ] , ed. Shaykh Safiur Rahman Al Mubarakpuri, Vol. 2 [ Darussalam ] , p. 453

[36](#): Muslim 2613. Muhammad Hisham Kabbani comments on this narration: "...The Prophet is showing that Allah will take revenge on behalf of *any person* who is *tortured*, whether *Muslim* or *non-Muslim*. This hadith shows that the Prophet is, as Allah described: 'a mercy to the worlds' ( 21:107 ) .." [ Shayk Muhammad Hisham Kabbani, "The Approach of Armageddon ? An Islamic Perspective" ( ISCA , 2003 ) , p. 30 ]

[37](#): Prof. Bernard A. Cook states: "...Rape is a sexual form of *torture* with the vast majority of victims being female..." [ Source: Prof. Bernard A. Cook: "Women and War: A Historical Encyclopedia from Antiquity to the Present " ( Abc-Clio, 2006 ) , p. 481 ]. In another source we read: "...Sexual *torture* can be defined widely as including violence against sexual organs, the introduction of foreign bodies into the vagina or rectum, *rape* and other *forced* sexual acts, and mental sexual assault such as forced nakedness, sexual humiliation, sexual threats, and the forced witnessing of sexual torture..." [ Roger W. Byard, Jason Payne-James, "Encyclopedia of forensic and legal medicine" ( Elsevier Academic Press, 2005 ) , p. 298 ]

[38](#): Muslim, Book 27, Nr. 5591 ; see also Muhammad Qutb, "Islam: the misunderstood religion" ( 1997 ) , p. 29

All these beautiful and powerful teachings of the Holy Prophet, inspired Caliph 'Ali ibn Abi Talib [ the son-in-law of Prophet Muhammad ] to give his soldiers the next order prior to *every* battle, see:

According to Abu Mikhnaf – Abd al-Rahman b. Jundab al-Azdi - his father: On every occasion on which we confronted an enemy 'Ali [ may the Mercy of Allah the Exalted be upon him ] would command us in these words: "Do not fight them unless they attack you first. You, praise be to God, have a good case and holding back from fighting them until they attack will strengthen it. If you fight them and defeat them, do not kill the fugitives, do not finish off the wounded, do not uncover their "nakedness", and not mutilate the slain. If you reach their abodes, do not tear aside a curtain, enter a dwelling without permission, or seize any of their property apart from what you find in the army camp. Do not harm against "any" woman, even if they utter abuse against your honor and vilify your leaders and righteous men, for women are weak of body [ strength ] and soul 1 [ i.e. they are very *emotional* and *sensitive* ]" 44

1: Note: the expression "...for women are weak of body and soul.." should be read and understood in its proper context. In the above narration we read that Ali used this expression as an argument or reason for his command that no woman should be harmed. The connection between this law and the expression discussed in this note, clearly demonstrates that Ali is not referring to a woman's intellect or brain capacity when he is calling them weak of body of soul, but to the fact that women have little physical strength and a very vulnerable soul [ since their soul is very emotional and sensitive ].The fact that the soul of a woman is weak in this sense in no way should be seen as a defect or an inferior quality. One source states: "...There is an equilibrium in creation. What we see as inequality if we view it in its entirety is the soul of equality and justice. Woman with her unique psyche and physique, in different junctures [ of her life ] , receives specific rights. Man, too, with his special physical and psychological features, receives specific rights under specific circumstances ..Woman is emotionally superior ..This is a privilege and merit, and should not defined as a fault. Woman has *superior emotional quality* and because of that has *special responsibilities*. God has done this in creating humans and achieving their perfection...God has given women this responsibility, i.e. , rearing of generation...A great responsibility. She should undertake it and explain it to the world that having superior emotion is a *valued quality* and *not* an inferior one. A merit and a gift which woman has and having emotion does *not* mean lacking wisdom and judgement. One who has inferior judgement cannot have such a responsibility, cannot receive such a gift. Therefore, having more emotion does not mean having inferior mind.." [ S. Gerami, *Women and Fundamentalism: Islam and Christianity* ( Taylor & Francis 1995 ) p. 144 ]. In addition it is important to mention that "soul" in the next source is defined as: "The seat of a person's innermost emotions and feelings" [ see: *Roget's II: the new thesaurus* ( Houghton Mifflin , 1980 ) p. 875 ]. In Islam moreover we are told by our Prophet that we should make Jihad against our own soul [ Al-Bayhaqi narrated this saying in "al-Zuhd al-Kabir" ]. In other words we are told to struggle [ or combat ] against those emotions, passions, desires and feelings that distract us from the straight path of God. The Prophet did not command Muslims to struggle against their own intellect, contrary the Qu'ran clearly instructs Muslim to use their intellect / reason [ see Qur'an 3:118 ; 30:28 ; 8:21-22 ]. Moreover we read that the Greek philosopher Plutarch of Chaeronea said: "...'*Man*' ..is compound ; and they are mistaken who think him to be compounded of two parts only. For they imagine that the understanding ( brain intellect ) is a part of the soul ( the upper Triad ) , but they err in this no less than those who make the soul to be part of the body. For understanding [ *nous* ] as far exceeds the *soul*, as the *soul* is better and diviner than the body. Now this composition of the soul with the understanding makes reason ; and with the body passion ; of which the one is the beginning or principle of pleasure and pain, and the other virtue and vice.." [ see: "Plutarch's *Morals*" ( Little, Brown, and Company, 1874 ) , p. 286 ]. All these findings confirm our earlier conclusion that 'Ali did not refer to a woman's intellect in the above narration. In addition the context of the above narration clearly demonstrates that Imam Ali's message simply was that a woman's body and soul is very vulnerable [ for this reason he prohibited men to harm or hurt any woman ]. This point is also confirmed by the fact that the word "vulnerable" is a synonym for the word "weak" [ source: Richard Soule, "A Dictionary Of English Synonyms and Synonymous Expressions" ( Read Books, 15 March 2007 ) p. 600 ]

In the above narration we clearly read how 'Ali prohibited his soldiers to uncover the nakedness of any of their prisoners. 'Ali further confirmed that it was forbidden in Islam to harm any woman of the enemy ! The fact that Muslims could not by force undress anyone of the enemy, and were not allowed harm any woman of the enemy, confirms that *only* by mutual consent sex was permissible !

44: Imam Tabari: "The History of al-Tabari" , Vol. XVII [ State University of New York Press , 1996 ] , p. 30

### Misunderstood Narrations:

In the previous section we proved that the teachings of Islam prohibited a master from raping his female slave. Some people however still think that some narrations indicate that men were allowed to rape their female slaves. In this section we shall discuss these narrations. The first hadith reads:

Ibn Muhayriz related from Abu Said al-Khudri [ ra ] that during the battle with Bani l-Mustaliq **1** they [ Muslims ] captured some females and intended to have sexual relations with them without impregnating them. **2** So they asked the Prophet about coitus interruptus. The Prophet said "...It is better that you should not do it, for Allah has written whom He is going to create till the Day of Resurrection....." **35**

- 1: Imam Ibn Kathir states: "...The Messenger of God [ saas ] was informed that Banu al-Mustaliq were assembling to attack him ... When he heard of their activity, he went forth against them .." [ see: Ibn Kathir, "The life of the Prophet Muhammad" ( Garnet Publishing Ltd , 2000 ) , Vol. III , p. 461 ]. In another authentic hadith we read "...the Prophet had suddenly attacked Bani Mustaliq without warning while they were heedless and their cattle were being watered at the places of water. Their fighting men were killed and their women and children were taken as captives..." [ Bukhari, Vol. 3, Book 46, Nr. 717 ].
- 2: The Sahaba intended to have intercourse with these women after the waiting period of one menstrual cycle.

Polemics against Islam argue that a captive woman would never consent to have sex with her captor. So they claim that the above narration demonstrates that Islam permits rape of female slaves. This view however is the result of ignoring the historical context behind this narration. In ancient times , when a tribe lost a battle, all their spoils were taken away as war booty by the other side. Further it was a custom of war to kill all the male warriors of the enemy. As a result of this most women lost their husbands and fathers in war. In ancient times it was very difficult for a woman to survive without a father or a husband. The woman on her own would not have any financial or social *security*. She could only survive by becoming a *prostitute* or *beggar*. In this context it becomes clear that most women after war would prefer to become a concubine of her captor, than ending up as a *beggar* or *prostitute* on the streets without any protection or future. One Encyclopedia in its discussion on ancient wars in the Middle East [ Arabia ] mentions an important point, see:

Women who followed their father and husbands to the war put on their finest dresses and ornaments previous to an engagement, in the hope of finding favor in the eyes of their captors in case of a defeat ... **36**

Another source also discusses the practices of Middle Eastern women in ancient wars , and states:

Women .. followed armies to do the soldiers' laundry .. They would *often* dress in such a way as to attract the soldiers who won the battle. The Western mind associates prowess, whether military or athletic, with sexual success. The pretty girls crowd around the hero who scores the winning touchdown, not around the players of the losing team. And it is certainly true in war: the winning hero attracts the women ... **37**

**35:** See: Sahih Bukhari, Vol. 9, Nr. 506

**36:** See: John Mc Clintock, James Strong, "Cyclopædia of Biblical, Theological, and Ecclesiastical Literature" [ Harper & Brothers, 1894 ] , p. 782

**37:** See: Prof. Matthew B. Schwartz , Prof. Kalman J. Kaplan, "The Fruit of Her Hands: The Psychology of Biblical Women" [ Grand Rapids: William. B. Eerdmans Publishing Company, May 2007 ] , pp. 146-147

Why would a woman make herself attractive, if she was not willing to become a concubine ? The historical facts we just cited prove that it is not absurd to state or argue that the female captives of Bani I-Mustaliq would consent to have sex with the companions of the Prophet. There is absolutely no evidence to suggest that middle eastern women in the time of Prophet Muhammad thought or acted differently. In the light of these given historical facts should we also read the next narration:

Abu Sa'īd al-Khudari .... said, "...At Awtas **1** we took some women prisoner who had husbands **2** and we were reluctant to have intercourse with them while this was so. We therefore asked the Messenger of God [ saas ] **3** and this verse was revealed, "and all married women [ are forbidden ], except those whom your right possess" [ *Surat al-Nisa*; IV, v. 24 ] And so we considered their bodies permissible to us **4** .." **38**

- 1: In order to give the reader a better understanding of the hadith, we shall cite the full story of this battle. In the *Seerah* we read: "...news broke out which shook the Muslims ..They learned that Hawazin, the tribe living a few miles to the southeast of Makkah, had mobilized its forces and was marching against the Muslims ... Malik ibn Awf al Nadri succeeded in uniting the Hawazin and Thaqif tribes ... The anti-Islamic alliance had mobilized all its members, men, women, and children, and carried to battle all the treasures it possessed. It completed its mobilization in the valley of "Awtas"....As for the Muslims, they went forth under the leadership of Muhammad....As the Muslims passed through the canyon of Hunayn, Malik ibn `Awf ordered his army to attack ... the whole Hawazin camp had come out of their trenches in the hills and confronted the Muslims face to face in the valley.. Around the Prophet a few hundred soldiers stood and *repelled* the attacks of the Hawazin .. Hawazin, Thaqif, and their allies realized that their efforts were vain and that they faced annihilation. They turned around and started to flee, leaving behind them their women, children, and all their properties..The captives which numbered 6000 were transported under Muslim protection to the valley of al Ji'ranah where they were held until the Muslims returned from their pursuit of the enemy and from their blockade of *Thaqif* tribe in the city of al Ta'if. [ M. Haykal, "The Life of Muhammad" ( Lahore 1997 ) , pp. 418-419 ].
- 2: In the *Seerah* we read that the husbands of these women [ who survived the battle ] fled to Nakhlah and the city of al-Ta'if [ see: Muhammad Haykal, "The Life of Muhammad" ( Islamic Book Service , Lahore 1997 ) , pp. 418-419 ]. In other words the sahaba thought that it was forbidden to have intercourse with these women, since their pagan husbands were still alive [ because of their escape from the battlefield ].
- 3: In another authentic narration we read that the Messenger of God is reported to have said: "...it is not permissible for a man who believes in Allaah and the Last Day to have intercourse with a captured woman until he has established that she is not pregnant.." [ see: Sunan Abu Dawuud 2158 ; Shaykh al-Albaani,Saheeh Abi Dawood, nr. 1890 ]. So the companions of the Prophet wanted to know if it was permissible for them to have intercourse with these women after waiting one menstrual period.
- 4: In the online English translation of Tafsir Ibn Kathir [ see: tafsir.com ] the last part of this narration is translated as: "...consequently, we had sexual relations with these women...". This translation is not correct. The Arabic text of this narration is best translated as: "...and so we considered their bodies permissible for us..". The translation of this hadith by Prof. Le Gassick in "Al-Sira al-Nabawiyya" is correct [ see: Ibn Kathir, "The life of the Prophet Muhammad" ( Garnet Publishing Ltd ) , Vol. III , p. 461 ].

The claim that the female captives in the above hadith would never consent to have sex with their captors, is disproven by the fact that middle eastern women in the past would beautify themselves for the soldiers who won the battle. In addition it is important to mention that the female captives in the above narration were left behind unprotected by their husband who ran away. So it is very likely that these women were disappointed and angry at their husbands. In addition we should mention that these female captives were pagans. Pagan women in the time of Prophet Muhammad were often forced into marriage. **39** Many of them could not choose their own partner. Therefore it is most likely that many of these women that were captured by the Muslims in the above narration were unhappy in their marriage. Further it is important to mention that the sexual morals of these

**38:** Ibn Kathir, "The life of the Prophet Muhammad" [ Garnet Publishing Ltd , 2000 ] , Volume III , p. 461

**39:** One source states: "...The practice of forced marriage was common during the pre-islamic era.." [ see Christine Huda Dodge, "The Everything Understanding Islam Book" ( Everything Books, 2003 ) p. 208 ].

people were very low. <sup>40</sup> The mentality of these women in ancient wars was completely different than the mentality of women in today's modern world. In the light of all these given facts and the possibilities that we discussed, it is not unreasonable to say or argue that the female captives in the above narration were open for a new relationship with their captors as concubines. Especially when they would quickly realize or notice that the religion of their captors [ Islam ] prescribed them [ the Muslims ] to treat their concubines gently and with respect. One non-Muslim source points out:

Islam prescribes gentle treatment of slaves. And slave women in particular could achieve comfort and influence as concubines ... [ Source: "Women and the Journey: The Female Travel Experience" by Bonnie Frederick, Susan H. McLeod and Jo Hockenhull ( Washington State University Press, Nov. 1993 ) p. 124 ]

The story of Safiyyah, the Jewish wife of Prophet Muhammad, also strongly supports our view that the female captives taken at *Awtas* by the Muslims did consent to have sex with the companions of the Prophet. Safiyyah was the daughter of the leader of Banu al-Nadir. She became a captive of the Muslims after the battle of Khaybar. <sup>41</sup> When the spoils of war were divided up, Safiyyah fell to the lot of Dihya al-Kalbi and he gave her to the Prophet, who made her an offer. Martin Lings reports:

He [ saas ] then told Safiyyah that he was prepared to set her free, and he offered her the choice between remaining a Jewess and returning to her people or entering Islam and becoming his wife. "I choose God and His Messenger", she said; and they were married at the first halt on the homeward march [ Martin Lings, "Muhammad: His Life Based On The Earliest Sources", ( George Allen and Unwin, 1983 ) , p. 269 ]

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- 40:** Tor Andrae states: "...The ancient Arabs do not seem to have been burdened with moral sensitivity in sexual matters. It might happen that a man would lend his wife to an especially brave and prominent man in order to beget children of good stock. Less permanent alliances also were regarded as completely legitimate within certain limits..." [ Tor Andrae, "Mohammed: The Man and His Faith" ( Courier Dover Publications, 2000 ) , p. 189 ]. In another source we read: "... The pre- Islamic Arabs had no scruples about nakedness. Even in sacred functions like the pilgrimage men and women circumambulated the Ka'bah stark naked.." [ Dr. Khalifa Abdul Hakim, "The Prophet and His Message" ( Institute of Islamic Culture 1972 ) , p. 280 ]. Dr. Ashgar Ali Engineer adds: "...during pre-Islamic days women used to display their sexual charms publicly, reducing themselves to sexual objects. They even used to solicit publicly. Tabari has recorded such an instance. He tells us of an event in the life of the Prophet's father: '...After sacrificial offerings he ( 'Abd al-Mutallib, the Prophet's grandfather ) was returning from the K'aba holding the hand of his son 'Abdallah. He happened to pass by a woman of Bani Asad, Umm-e-Qital bint Naufal, who was present in the K'aba. She, looking at Abdallah's face, said, "Where are you going ?" Abdallah said, "I am with my father" , "Take from me" , she said "all the camels slaughtered in redemption ( of vow ) if you ( agree to ) sleep with me right now". Abdallah said, "My father is with me, I do not want to act against his will nor do I want to separate from him" . This clearly shows that during the jahiliyah women not only displayed their sexual charms but they also solicited publicly.." [ Asghar Ali Engineer, "The Rights of Women in Islam" ( New Dawn Press 2004 ) , pp. 100-101 ; The History of Al-Tabari, vol. 6, p. 5 ]
- 41:** The reasons for the Battle of Khaibar are given by Sheikh Safi-ur-Rahman al-Mubarkpuri in his book: "The Sealed Nectar: Biography of the Noble Prophet". The Sheikh writes: "...After the Hudaibiyah Treaty, the major party of the anti-Islam tripartite coalition, the Quraish, was neutralized. Therefore, the Prophet considered it an appropriate time to settle his affairs with the other two wings – the Jews and the Najd tribes – in order that peace and security could prevail and the Muslims may devote their time and effort in propagating the Message of Allah and calling people to embrace it. Khaibar itself had always remained a hotbed of intrigue and conspiracy, and the Jews had always used it as a source of military provocation and an instigation center, so it was given top priority on the Prophet's agenda of the affairs requiring urgency. The Jews of Khaibar, united by an ancient alliance with the Confederates, provoked Bani Quraizah to practice treachery, maintained contacts with Ghatafan and the Arabians and they even devised an attempt on the Prophet's life. In fact, the continual affliction that the Muslims sustained were primarily attributable to the Jews. Envoys were repeatedly sent to them for peaceful settlement, but all in vain. Consequently the Prophet came to the conclusion that a military campaign was a must in order to solve this problem.." [ see "The Sealed Nectar: Biography of the Noble Prophet" ,Darussalam 2002, p. 431 ]

It is important to note that Safiyyah after the battle of Khaibar, in which she lost her husband, did not choose the option of returning to her people, but preferred to marry the Holy Prophet. She was clearly not forced to marry him, but freely did. <sup>42</sup> In other words here we have an example of a woman who lost her husband, but still freely choosed to marry and have sexual relations with one of her captors. The story of Safiyyah, again demonstrates that it is not unreasonable to argue or say that the female captives taken at Awtas by the Muslims did consent to have sex with them. This view is supported by the fact that Arabian women in ancient wars used to beautify themselves for the soldiers who won the battle. In our view it is most likely that the companions of the Prophet impressed their female prisoners by their high morals and kind behavior towards them , and convinced them of the truth and beauty of Islam. <sup>43</sup> In addition it can be argued that the behavior of the Muslims towards these women impressed them so much, that they soon developed deep feelings of affection for their captors. <sup>44</sup> As a result the women soon felt themselves comfortable in the presence of the Muslims, and did [ after one menstrual cycle ] consent to have sexual relations with them. In other words no rape or sexual violence took place here. <sup>45</sup> It can also be argued that

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- <sup>42</sup>: Polemics against Islam try to discredit this possibility, and claim that two narrations demonstrate that people viewed it immoral or wrong in the time of Prophet Muhammad to marry one's captor. The first narration reads: "...According to *al-Waqidi*: In this year the Messenger of God married Mulaykah bt. Dawud al-Laythiyyah. One of the Prophet's wives came to Mulaykah and said to her, "Are you not ashamed to marry a man who killed your father?" She therefore took refuge in God from him. She was beautiful and young. The Messenger of God separated from her. He had killed her father the day of the conquest of Mecca..." [ source: "The History of al-Tabari: The Victory of Islam", Translated by Michael Fishbein, Volume VIII, p. 187 ]. In the second narration the same thing is told of Mulaykah bin Ka'b [ who is likely the same person ]. The narration reads: "...According to Ibn 'Umar [ *al-Waqidi* ] : ... The Prophet married Mulaykah bt. Ka'b, who was famous for her outstanding beauty. 'A'ishah went in to her and said "Are you not ashamed to marry the man who killed your father?" Mulaykah said that she sought refuge in God from the Prophet. [ On hearing this ] the Prophet divorced her. [ People of ] her clan came to the Prophet and said "She is small and has no mind of her own; she was beguiled [ into saying what she did ] , so please take her back." But the Prophet refused. They then asked his permission to give her in marriage to a relative of hers, of the Banu 'Udhrah; the Prophet consented, and the 'Udhri married her. Mulaykah's father was killed in the conquest of Mecca.." [ source: "The History of al-Tabari", Volume 39, p. 165 ]. The claim that these two narrations demonstrate that people viewed it immoral or wrong to marry one's captor is refuted by the fact that these two narrations are completely unreliable . Both reports are narrated by Muhammad Ibn 'Umar [ popularly known as *al-Waqidi* ]. Imam Shafi said: "In Madinah there were seven people who used to *forge chains of narration*. One of them was al-Waqidi" [ see: "Tahdhib al-Kamal" , vol. 26 , p. 194 ]. Ahmad ibn Hanbal said of him: "He is a liar." Al-Bukhari and Abu Hatim al-Razi said: "discarded". Ibn al-Madini said: "he forges hadiths" Al-Dhahabi said: "consensus has settled over his debility.." [ Mizan al-'itidal 3:662-666 ]. In the same source that is used by polemics against Islam moreover we read that al-Waqidi himself admits that his teachers denied his narrations which state that the Prophet married Mulaykah bt. Ka'b al-Laythi. Al-Waqidi said: "...Our masters deny this, saying that the Prophet never married a woman of the Kinanah.." [ see: "The History of al-Tabari", Vol. 39, p. 165 ].
- <sup>43</sup>: Muslims were commanded to treat their slaves and prisoners of war very kindly and with respect [ see Qur'an 4:36 ; 76:8-9 ]. In this connection, Sir William Muir has observed: "...In pursuance of Muhammad's command, and in accord with the passage [ of the Holy Quran ] already quoted, the Citizens, and such of the Refugees as had houses of their own, received the prisoners with *kindness* and *consideration*. Blessings on men of Medina, said one of these in later days, they made us ride, while they themselves walked on foot ; they gave us wheaten bread to eat when there was little of it, contending themselves with dates. It is not surprising, therefore, that some of the captives, yielding to these influences, declared themselves Believers... The kindly treatment was thus prolonged, and left a favourable impression on the minds even of those who did not at once go over to Islam.." [ Sir William Muir, "Life of Muhammad" , pp. 233-4 , cited in: "Muhammad: Seal of the Prophets" by Muhammad Zafrulla Khan ( Routledge 1980 ) , pp. 121-122 ].
- <sup>44</sup>: One source in its discussion on captive women in ancient Greece confirms this possibility. Professor Peter Karavites and Thomas E. Wren write: "...The condition of many of these women captives, undesirable and shameful though it might have been, was not as a rule desperate. Many enjoyed a kindly treatment as if their captors realized that they were the innocent victims of war, while others became concubines or maids and soon developed deep feelings of affection for their captors.." [ Source: Peter Karavites, Thomas E. Wren, "Promise-giving and Treaty-making: Homer and the Near East" ( Brill 1992 ) , pp. 160-161 ].
- <sup>45</sup>: In the same way should we read and interpretate the next hadith narrated by Buraida: "... The Prophet sent Ali to Khalid to bring the Khumus [ part of the war booty ] .. and Ali had taken a bath [ after a sexual act with a slave girl from the Khumus ]... [ Bukhari, Vol. 5 , nr. 637 ]. The claim that rape took place here is refuted by the fact that Muslims were not allowed to harm their female slaves, and the historical fact that many Arabian women in ancient wars used to beautify themselves for the soldiers who won the battle.



some of the female prisoners decided to have sexual relations with the companions of the Prophet for other reasons. Some for example might have realized that Islam's liberal and humane attitude towards slavery offered them as concubines the opportunity to influence their masters a lot and achieve certain goals. <sup>46</sup> Since it is impossible to disprove all of the previous given possibilities, one cannot say that the Prophet sanctioned rape of female slaves. The fact that Muslims were forbidden by the Prophet himself to harm and torment their female slaves <sup>47</sup>, cancels out such a possibility.

### Conclusion:

Rape is a cruel act. It is a sexual form of torture that harms a woman in various ways. The fact that a master in Islam was forbidden to torture, harm and torment his slave girl, clearly demonstrates that he was not allowed to rape or abuse her. Maulana Saeed Ahmed confirms this conclusion, see:

It is forbidden to forcibly have intercourse [ with a slave ]. It is reported by Salamah ibn Muhabbaq that a man copulated with the female slave of his wife. The case was brought to the Prophet [ may Allah bless him and grant him peace ] and he said: "...If the man has had intercourse with the female slave forcibly, then the slave is free and he will have to compensate the owner of the slave. But if the slave had agreed to the act, then she belongs to him and he will have to compensate the owner of the slave...". Hafiz ibn Taymiyyah has said that the hadith is sound, although some people have questioned it [ see: Al-Qiyas fi al-Shara' al-Islami, p. 57 ]. He writes further that if anyone disfigures his slave, the slave will become emancipated. Imam Maalik, Imam Ahmad, and other scholars agree with him. The Prophet is quoted on the subject in aathar and his Companions too, for example Sayyidina Umar. If force is applied to commit an immoral act, that is considered the same as disfiguring [ Al-Qiyas fi al-Shara' al-Islami, p. 60, 61 ]. <sup>48</sup>

Rape is an act by which force is used in order to humiliate a woman and have sex with her against her will. For this reason it is also correct to describe rape as: "...the use of force in order to commit an immoral act [ i.e. the sexual humiliation of a woman ] .." Therefore rape is considered the same as disfiguring. The fact that Islam did not permit a master to disfigure his slave girl, again confirms he was not allowed to rape her. If a man had sex with a slave girl whom he did not own, then he would be guilty of fornication or adultery <sup>49</sup>. An exception to this rule was the case in which a man had sexual relations with the slave girl of his wife. The reason for this exception was probably the fact that a slave girl of a man's wife was also part of his household. The slave girl would sleep in his house [ or in another building owned by him ], and was therefore also partly maintained by him [ i.e. the slave girl was to some degree also owned by him ]. It was probably for this reason that the

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<sup>46</sup>: One source states: "...Islam prescribes gentle treatment of slaves. And slave women in particular could achieve comfort and influence as concubines.." [ Source: Bonnie Frederick, Susan H. McLeod, "Women and the Journey: The Female Travel Experience" ( Washington State University Press, Nov. 1993 ) p. 124 ]

<sup>47</sup>: See: Ibn Maajah, 2340 ; Ibn Sa'd, "al-Tabaqatul Kabir", Volume II:1, ( Leiden: E.J. Brill, 1912 ), p. 133

<sup>48</sup>: Maulana Saeed Ahmad, "Slavery in Islam", trans. by Rafiq Abud Rehman ( Darul Ishaat 2000 ), pp. 179-80

<sup>49</sup>: In Sunan Al-Bayhaqi we read that Khalid Ibn al-Walid reported to 'Umar Ibn al-Khattab [ ra ], the second Muslim Caliph, that Dirar Ibn al-Azwar had sex with a captive woman during the Muslim war against Banu Asad. In response, 'Umar wrote to Khalid ordering him to stone Ibn al-Azwar to death [ since Dirar did not own the captive woman, but had "touched" her prior to the distribution of the booty by the Caliph ]. Before Khalid had received Umar's judgement, however, Ibn al-Azwar had passed away [ Sunan Al-Bayhaqi, Vol. 2, no. 18685, p. 363 ]. This narration demonstrates that a man who had sex with a captive woman or slave girl he did not own, was punished for illegal sexual intercourse [ fornication or adultery ]. So both rape and mutual consensual sexual intercourse with a captive woman or slave girl not in one's possession, were forbidden by Islam. Imam al Shafi'i said: "...If a man acquires by force a slave-girl, then has sexual intercourse with her after he acquires her by force, and if he is not excused by ignorance, then the slave-girl will be taken from him, he is required to pay the fine, and he will receive the punishment for illegal sexual intercourse." [ Kitaabul Umm, Vol. 3, p. 253 ]

Prophet did not view the act under discussion here as adultery. <sup>50</sup> The narration however clearly demonstrates that a slave master was not allowed to rape the slave girl he fully or partly owned to some degree <sup>51</sup>. If he did, he would be guilty of disfiguring his slave girl, since he used force in order to commit an immoral act [ i.e. having sex with a woman against her will ]. The fact that the Prophet ruled that the female slave who was raped by her co-owner [ the husband of her female master ], was to be released, demonstrates that he viewed the act under discussion as illegal and unjustified harm against the woman. <sup>52</sup> Further reasons for the Prophet's decision to release the slave girl, must have been the awareness that it would be very cruel for a woman to live, work and sleep in the house of the man who raped her. It would be horrible for a woman to see her rapist daily and to follow his orders. If we use our reason, and realize that the Prophet for these reasons ruled that a slave girl who was raped by her co-owner [ the husband of her female master ], was to be released, it becomes clear that a slave girl who was raped by a man who fully owned her, also was to be released [ since the Prophet viewed rape as *unjustified* harm against *any* woman, and was of the opinion that no victim of rape should be put in a situation in which she would be confronted with her rapist daily or often ]. In other words the fact that the Prophet did not view sex between a slave girl and her co-owner [ the husband of her female master ] by mutual consent as adultery, but ruled that it was forbidden [ haram ] for him to rape her [ since the slave girl was to be released in this scenario ], shows that a master who fully owned a slave-girl could also not rape her. All these facts rebut the claim that Prophet Muhammad sanctioned the rape of female slaves or prisoners of war. The Christian historian G. Zeidan even notes that: "Islam is extremely kind to the slaves". <sup>53</sup>

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- <sup>50</sup>: Imam Ahmad and Ibn Mascud [ ra ] agreed with this view. Ibn Rushd [ Averroes ] in his classic work 'The Distinguished Jurist's Primer' states: "...Among the issues is the case of a man who has intercourse with his wife's slave-girl. The jurists differed about it into four opinions....One group of jurists said that there is no *hadd* on him and he is to be considered a debtor for her value, in case the slave-girl voluntarily participated in the act, but if he coerced her he is to pay her value and she is free. This was the opinion of Ahmad, Ishaq, Ibn Mascud..." [ Ibn Rushd, "The Distinguished Jurist's Primer" , trans. by Imran Ahsan Khan Nyazee ( Garnet , 2000 ) Vol. 2 , p. 522 ] . Various classical jurists have also stated that intercourse between a man and a female slave belonging to his son or daughter falls into a category of exceptional circumstances in which the *hadd* punishment for fornication is not applied. Malik b. Anas said: "...if a man cohabits with his son's or his daughter's female slave, the *hadd* punishment is averted from him, but he must pay the female slave's price , whether or not she is pregnant..." [ see: "al-Muwatta", ed. Muhammad Fu'ad 'Abd al-Baqi ( Cairo: 'Isa al-Babi al-Halabi 1370 / 1951 ) , vol. 2, 830 ]. A similar view is attributed to Ibn 'Abd al-Barr [ see: Ibn 'Abd al-Barr, *Kafi*, 575 ], Ibn Rushd [ see: Ibn Rushd, *Bidaya*, vol. 2 , 468 ] and Ibn Juzayy [ see: *Qawanin*, 303 ]. Support for this view is found in the next prophetic dictum, "...You and your wealth belong to your father..." [ See: Ibn Rushd, "The Distinguished Jurist's Primer", vol. 2, p. 522 ]
- <sup>51</sup>: Earlier we mentioned that the slave girl of a man's wife was to some degree also owned by him, since the slave girl became a member of his household and was partly maintained by him [ since she would sleep in his house or in another building owned by him ]. The view that the slave girl of a man's wife to some degree was also owned by him is supported by a hadith narrated by Umm Salamah [ one of the Prophet's beloved wives ]. Umm Salamah said: "...Once when the Prophet was in my house with a siwak in his hand, he called my bond-maid, but she did not answer. This made him angry. So I went to fetch her and found her playing [ with an animal ]. I said, 'You are playing and the prophet is calling for you ?' The bondmaid said to the Prophet, 'By God Who justly made you His messenger, I did not hear you'. The Prophet then said to her, 'had it not been for my fear of being called to account, I would have hit you with this siwak..." [ source: M. Hamad Khidr, "Human Rights in Islam" ( Dar Koder 1988 ) p. 52 ; see also Kanz al-'Ummal 39820 ]. This narration demonstrates that the Prophet had the authority to call the slave girl of his wife. Moreover we see that the Prophet even had the *authority* to hit the slave girl of his wife lightly with a *siwak* [ a soft small fibrous twig that was used also as a tool to clean one's teeth with in ancient times ]. These facts demonstrate that a husband to some degree owned the slave girl of his wife. The narration cited by Maulana Saeed Ahmed tells us that if the husband had sex with the slave girl of his wife by mutual consent, he was required to compensate the full owner of the slave [ his wife ]. The narration further states that the husband would become the full owner of the slave girl, since she agreed to have sex with him. In case the husband forced the slave girl into sex, she would become free. In this scenario he was also required to compensate the owner of the slave girl [ his wife ]. And finally it is important to note that the person guilty of this sin had to fear Allah Almighty on the Day of Judgement ! Allah states in the Holy Qur'an: "...whosoever does evil equal to the weight of an atom ,shall see it..." [ Qur'an 99:8 ]
- <sup>52</sup>: The woman was set free, since a crime was committed against her. For the same reason we read in Sahih Muslim that a master was forced to set free a slave whom he had slapped in the face [ Muslim 15:4084 ]
- <sup>53</sup>: See: Georgi Zeidan, "The History of Civilization" , Volume 4 , p. 54 , cited in: "Islamic Views on Human Rights: Viewpoints of Iranian Scholars" by Esmail Salami, Jamilih Kukabi [ Alhoda UK, 2001 ] , p. 290

### Rebuttal 1:

The Prophet told Laqit ibn Sabira 'Do not beat your wife as you would beat your slave girl' [ abu dawud ]

Polemics against Islam argue that this particular narration demonstrates that a slave girl could be disciplined hard. The above translation however is *not* very accurate. <sup>54</sup> The word "slave girl" is not used in the Arabic text of this particular narration, but "slave". A more accurate translation of the narration would be: "...and do not beat your wife in the same way as a slave is beaten.." <sup>55</sup> The word "slave" in this narration refers to the male servant, not the slave girl. <sup>56</sup> In other words the narration should be read as: "...and do not discipline your wife in the same way as a male servant [ who is guilty of ill behavior ] is disciplined...". The Prophet reminded his companion of the fact that one's wife [ a woman ] could never be hit in the same way as a male [ servant ] is hit by his master. The obvious reason behind this prophetic saying is found in another reliable narration, see:

Narrated Anas: The Prophet was on a journey and a slave named Anjasha was chanting [ singing ] for the camels to let them go fast [ while driving ]. The Prophet said, "O Anjasha, drive slowly [ the camels ] with the glass vessels !" Abu Qilaba said, "By the glass vessels' he meant the women" [ Bukhari, Book 73, 229 ]

In other words according to the Prophet a woman is like a glass vessel. One needs to treat her extra carefully, tender and gentle, otherwise she will get hurt. A violent blow causes a "glass vessel" to break into pieces. It is because of this that the Prophet stipulated in his final sermon <sup>57</sup> that a man was only permitted to hit his wife very lightly [ with a "siwak" or something alike ] <sup>58</sup> . Since a slave girl is also a *woman* [ i.e. glass vessel ] , we conclude that a master was *not* allowed to hit her hard.

If we for the sake of argument would accept the opinion that the narration discussed here should be read as: "...Do not beat your wife in the same way as a slave girl is beaten..", then it can be said this saying pre-dates the narration in which the Prophet said: "Do not hit the female servants of God" [ Ibn Majah, Beirut: Dar al-Kutub al-Ilmiyyah, vol. 1 p. 638 ]. In this particular narration the Prophet prohibited his followers to hit any woman ! In other words the ancient practice of hitting one's slave girl hard was abrogated and outlawed by this command. Later on [ as a final rule ] the Prophet stipulated that a woman could only be hit lightly. <sup>59</sup> It would be absurd to argue or claim

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<sup>54</sup>: The Arabic text literally reads: "don't beat your wife the beating of a slave".

<sup>55</sup>: It is also possible that the expression: "and do not beat your wife in the same way as a slave is beaten" was a reference to the violent or cruel [ non-islamic ] beatings that pagans or non-Muslims used to give to their slaves in the time of the Prophet. So the Prophet told to his companion to never hit his wife in that way.

<sup>56</sup>: It is reported to that the Prophet said: "...Do not hit the female servants of God.." [ Ibn Majah, Beirut: Dar al-Kutub al-Ilmiyyah, vol. 1 p. 638 ]. Since slave women were also the female servants of God, it turns out that the Prophet was strongly against the act of hitting one's female slave. Moreover the hadith in which the Prophet said to a slave girl who had been extremely late, "if it were not afraid of Allah, I would have hit you with this siwak", indicates that a slave girl like a free wife could only be hit lightly [ with a siwak or something alike ]. Therefore we conclude that the word "slave" in this particular narration is a reference to the male servant. A master was permitted to discipline his male servant [ for ill behavior ] harder than his female slave [ whom he could only hit lightly ], due to his superior physical strength and power. The master was however never allowed to hit his male servant extreme painful or brutal. It is reported that the Prophet prohibited Muslims to torment their slaves [ Ibn Sa'd, "al-Tabaqat al-Kabir" , Vol. II:1 ( Leiden E.J. Brill 1912 ) , p. 133 ]. Islam also prohibited Muslims to hit anyone on the face [ See: al-Fath 5/216 ].

<sup>57</sup>: Sahih Muslim ; see also Jam'a al-Fawa'id, kitab al-Iman, akham al-Li'an , ( Meerut, n.d. ) , volume 1 , p. 14

<sup>58</sup>: Siwak: a soft small fibrous twig that was used as a tool to clean one's teeth with in the Arabian Peninsula.

<sup>59</sup>: See also p. 9 of this work [ note 29 ] in which I discuss all the important narrations related to this topic.

that the Prophet after his prohibition to hit any woman, again did permit a master to hit his slave girl hard. [60](#) Therefore we conclude that a master was *not* permitted to hit his female slave hard. [61](#)

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- [60](#): It is also reported that the Prophet said: "...Let me tell you who your evil ones are. They are those who eat alone, beat their slaves, and withhold their help..." [ see: Al-Tabrizi, "Mishkat Al-Masabih", trans. by James Robson ( S. M. Ashraf 1970 ) , p. 718 ]. In another hadith we read: "...A man came to the Prophet and said: "O, Messenger of Allah, how many times should we excuse and forgive the servant?" He kept silent then the man repeated the question and the Prophet kept silent, then he asked for the third time and the Prophet answered, "Excuse and forgive him *seventy* times every day..." [ Sunan Abu Dawud, 5164 ].
- [61](#): Someone might reply back to our conclusion and say: "...What is your evidence for the view that a slave girl like a free woman could only be hit very lightly with a siwak or something alike ? Is this conclusion not disproven by the fact that the final sermon of the Prophet in which this rule was given only discusses the relationship between a husband and a [ free ] wife ? ..". Our reply is that we need to find out what the prophet's reason was behind giving this rule. Why did the prophet stipulate that a wife could only be hit very lightly ? Was it the special status of a wife in marriage that led him to such conclusion or something else ? If the special status of a wife in marriage was the reason behind his rule that a wife could only be hit very lightly, then why did the Prophet earlier prohibited men to hit any woman ! The fact that the Prophet said: "do not hit the female servants of God" [ Source: Ibn Majah, Beirut: Dar al-Kutub al-Ilmiyyah, vol. 1 p. 638 ] and not "do not hit your wives" , clearly demonstrates that the Prophet found it immoral to beat any woman. In other words the text "Do not hit the female servants of God" tells us that the Prophet did not made any distinction between a free wife and a slave girl in regards to the right to be protected from being beaten hard. This fact clearly disproves the view that the special status of a wife in marriage was the reason behind the prophetic statement that a wife could only be hit very lightly with a siwak or something alike. The obvious reason behind the prophetic statement that a wife could only be hit lightly is found in the next reliable narration: "...the Prophet was on a journey and a slave named Anjasha was chanting [ singing ] for the camels to let them go fast [ while driving ]. The Prophet said, "...O Anjasha, drive slowly [ the camels ] with the glass vessels!..." Abu Qilaba said, "By the glass vessels' he meant the women [ riding the camels ]." [ Bukhari, Vol. 8, Book 73, Nr. 229 ]. In other words according to the Prophet a woman is like a glass vessel. One needs to treat her extra carefully, tender and gentle, otherwise she will get hurt. A violent blow causes a "glass vessel" to break into pieces. It is because of this that the Prophet stipulated in his final sermon that a husband was *only* permitted to hit his wife *very lightly* [ with a siwak or something alike ]. Since a slave girl is also a like a "glass vessel", we conclude that a master was not permitted in Islam to give her a violent or hard beating. In other words other narrations demonstrate that a wife could only be hit very lightly simply because she was a "woman" [ i.e. glass vessel ]. Therefore it is obvious that the final sermon of the Prophet also teaches us that a master could only hit his female slave lightly [ with a siwak or something alike ]. Support for this conclusion can be found in another hadith narrated by Umm Salamah [ one of the Prophet's beloved wives ]. Umm Salamah said: "...Once when the Prophet was in my house with a siwak in his hand, he called my bond-maid, but she did not answer. This made him angry. So I went to fetch her and found her playing [ with an animal ]. I said, 'You are playing and the prophet is calling for you ?' The bondmaid said to the Prophet, 'By God Who justly made you His messenger, I did not hear you'. The Prophet then said to her, 'had it not been for my fear of being called to account, I would have hit you with this siwak..." [ M. Hamad Khidr, "Human Rights in Islam" ( Dar Koder 1988 ) p. 52 ]. This hadith supports our view that a slave girl in Islam could only be hit very lightly [ with a siwak ]. Therefore even if we for the sake of argument accept the view that the hadith discussed in this section should be understood as: "and do not beat your wife in the same way as a slave girl is beaten." , then it is clear that the prophet in this hadith made a distinction between a wife and a slave girl simply because he had not yet been given an order by Allah to outlaw this distinction in regards to the right to be protected from being beaten hard. However the fact that the Prophet later on was given an order by Allah to prohibit the hitting of any woman [ "do not hit the female servants of God" ], clearly demonstrates that the distinction between a *wife* and a *slave girl* in regards to the right to be protected from being beaten hard, was outlawed ! Since the rule that a wife could only be hit very lightly was given after the prohibition to hit any women, our argument still stands that the reason behind this rule could not the special status of a wife in marriage [ since the distinction between a wife and a slave girl in regards to the right to be protected from being beaten hard was outlawed ], but could only be the fact that a woman is like a glass vessel. In other words the earlier narration in which men were prohibited by the Prophet to hit any woman, demonstrates that the rule that a wife could only be hit lightly with a siwak or something alike [ in case she was guilty of a very immoral or lewd act ] applied to a slave girl too. Had the Prophet deemed it permissible or moral for a master to hit his female slave hard, he would not have prohibited his followers to hit any woman ! Nor can it be said that the prophetic statement: "Do not hit the female servants of Allah" [ Sunah Ibn Majah ] was only a reference to the wives, since slave girls are the female servants of Allah too. In a hadith narrated by the Ibn Sa'd moreover we read that the Prophet called all slaves the servants of Allah [ Ibn Sa'd, "al-Tabaqat al-Kabir" , Vol. II:1 , Leiden: E.J. Brill, 1912 , p. 133 ].

### Rebuttal 2:

Some polemics against Islam have accused Umar ibn al-Khattab [ ra ] of raping a female slave. This claim is based on a hadith narrated by the historian Ibn Sa'd, in which it is reported that Umar said:

A slave girl passed by me who attracted me, and I cohabited with her while I was fasting [ Tabaqat vol 4 ]

The above translation gives the impression that Umar ibn al-Khattab decided to cohabit with an unknown slave girl who just passed by. [62](#) This view is incorrect. The Arabic text of the narration clearly states "Jariyah Li" [ a slave girl belonging to me ]. In other words the hadith simply tells us that Umar was attracted by one of his concubines [63](#) , and so he decided to break his voluntary fast by having intercourse with her. The claim that rape took place here is refuted by the fact that Muslims were forbidden by the Holy Prophet [ saaws ] to harm and torment their female slaves. [64](#)

In addition it is interesting to mention that we read in the Bible that prophet Abraham cohabited with his concubines. Do these Christians who view Umar ibn al-Khattab as a rapist for having sex with his concubine, also view Abraham as a rapist [ since he had also sex with his concubines ]? [65](#)

### Rebuttal 3:

Polemics against Islam often cite the next hadith:

Muhammad said: .."You see, God will soon make you inherit their land, their treasures and make you sleep with their women" ( lit. make their women beds for you ) [ Ibn Hisham, *Al Rod Al Anf* , V. II p. 182 ]

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- [62](#): This would be adultery, since it was only permissible for a man to have sex with the slave girl he owned.
- [63](#): In regards to concubinage, Raphael Patai in his discussion on concubinage among the Jews points out that: "...In many cases the slave girl was a willingly consenting party, because she achieved a favored position, and the children she bore to her master were treated by him as his own. Such concubines were found in many houses.." [ Source: Raphael Patai, "The Myth of the Jewish race" ( Wayne State University Press, 1989 ) , p. 128 ]. In another source moreover we read that a slave girl in Baghdad: "...made a lock that she gave to her [ Muslim ] owner to place on his penis so that he would not approach [ other ] women.."[ Al-Munajjid, "Al-Hayah al-Jinsiyyah" , p. 84 ]. These two quotes clearly rebut the view that a slave girl would never freely consent or like to have sex with her master. Moreover it is important to mention that in Islam a concubine who gave birth to a child by her master became an "umm walad" [ lit. "mother of a child" ] . She could not be sold, and became automatically free on her master's death. In addition all children born of legal concubinage were legitimate and usually inherited equally with children born in wedlock [ see: Orlando Patterson, "Slavery and Social Death: A Comparative Study" ( 1982 ) , p. 228 ]
- [64](#): The Prophet said: "There is to be no harm done or reciprocation of harm" [ see: Ibn Maajah 2340 ]. If a master could not accept the decision of his female slave not to have sexual relations with him, he could sell her to another person [ who would have no problem with the choice of the female slave to refrain from sex with her master ]. The Prophet is reported to have said: "...and your slaves, see that you feed them such food as you eat yourselves and dress him with what you yourself dress. And if they commit a fault which you are not inclined to forgive then sell them, for they are the servants of Allah and are not to be tormented..." [ source: Ibn Sa'd, "al-Tabaqatul Kabir" , Vol. II:1 , Leiden: E.J. Brill, 1912 , p. 133 ]
- [65](#): In the Bible we read: "...But unto the sons of the concubines, which Abraham had, Abraham gave gifts.."[ Genesis 25:5-6 ]. James McKeown comments: "...An unknown number of concubines are also credited with bearing children to Abraham..." [ Source: James McKeown, "Genesis" ( Wm. B Eerdmans 2008 ) , p. 124 ]

This hadith is fabricated, or at least very weak. Al-Baihaqi said that in this hadith is Muhammad Ibn Zakariyya al-Ghulabi, a Matruk [ his narrations are 'left alone' ] [66](#) . Al-Baihaqi also said that it's isnad is Majhul [ unknown narrators ] . [67](#) Ibn Kathir described this hadith as "Gharib Jiddan" [ extremely anomalous ] . [68](#) It is a very desperate act to attack Islam with a hadith of this low quality.

Secondly the Arabic text does not say "...and make you sleep with their women.." but states "...and make their women beds for you". The Arabic word for "bed" that is used here is "firash". In the classical Arabic idiom, the term "firash" is often used metaphorically to denote a "wife". [69](#) In other words it is possible to translate the narration as: "...God will soon make you inherit their land, their treasures and make their women wives for you.." [ source: "Al Rod Al Anf" ]. In other words even if we for the sake of argument would accept this narration, it can be said that the text simply states that Muslims in the future will be able to marry women from the Persian and Byzantine Empire. [70](#)

#### Rebuttal 4:

It is narrated on the authority of Umar Ibn al-Khattab that the Prophet forbade the practice of coitus interruptus [ 'azl ] with a free woman except with her permission. [1](#) [ Source: Al Musnad, Vol. 1 , p. 31 ]

[1](#): In other words a man could not deny his wife her right to have children and wish to become a mother.

The above narration indicates that a Muslim was not required to ask permission from his female slave to practice coitus interruptus when he was having sex with her. Polemics against Islam argue that this text also indicates that a Muslim could force his female slave into sex. The chain of this particular narration is however da'if [ weak ] due to the presence of Ibn Lahi'ah. Even if we for the sake of argument would accept this narration, it does not support the claim that Islam permits rape of female slaves. Earlier we proved that the Prophet prohibited Muslims to harm and torment their female slaves. [71](#) Since rape is an act of torment, and harms a woman in various ways, it is obvious that the Prophet did not permit Muslims to rape their female slaves. Therefore the narration simply

[66](#): Dala-il an-Nubuwwah, 2/422

[67](#): Dala-il an-Nubuwwah, 2/427

[68](#): Al-Bidayah wan-Nihayah, 3/139

[69](#): Firash. - Lit. "a couch". In Muhammadan law "a wife". [ Thomas Patrick Hughes, "A Dictionary of Islam: Being a Cyclopaedia of the Doctrines, Rites, Ceremonies, and Customs, Together With the Technical and Theological Terms, of the Muhammadan Religion" ( Asian Educational Services, 1996 ) , p. 128 ]

[70](#): This view is supported by the fact that we read in another source that Muslims after the conquest of Syria desired to marry Byzantine women. In the "Encyclopaedia of Islam" we read: "...Abu Ubaidah sent a detailed report to Hadrat Umar about the conquest of Syria. Writing about Antioch, Abu Ubaidah said: 'O Commander of the faithful, Antioch is a very beautiful and attractive place. Our soldiers were so much enamoured of the place that they insisted on staying there. I was afraid lest by staying there the Muslims might be involved in a luxurious way of living. I have accordingly come back to Emessa along with the army. The Byzantine women are very handsome and the Muslim soldiers are very much attracted by them. They long to marry such women and that is a matter of headache for me..' [ See: M. Mukarram Ahmed, M.Husain Syed , "Encyclopaedia of Islam" ( Anmol Publications PVT. LTD. , 2005 ) , pp. 108-109 ]

[71](#): The Prophet said: "There is to be no harm done or reciprocation of harm" [ see: Ibn Maajah 2340 ]. If a master could not accept the decision of his female slave not to have sexual relations with him, he could sell her to another person [ who would have no problem with the choice of the female slave to refrain from sex with her master ]. The Prophet is reported to have said: "...and your slaves, see that you feed them such food as you eat yourselves and dress him with what you yourself dress. And if they commit a fault which you are not inclined to forgive then sell them, for they are the servants of Allah and are not to be tormented..." [ source: Ibn Sa'd, "al-Tabaqatul Kabir" , Vol. II:1 , Leiden: E.J. Brill, 1912 , p. 133 ]

indicates that a Muslim did not need to ask permission from his female slave to practice coitus interruptus when he was having “consensual” sex with her [ such an act was permissible since it did not harm the female slave in any way ]. The Muslim was given this option since a concubine who gave birth to a child by her master became an “umm walad” , and could not be sold anymore. [72](#)

#### Rebuttal 5:

Some polemics against Islam have also accused Ali bin Abi Talib [ the son-in-law of the Prophet ] of raping a female slave. This accusation is based upon the next narration in Jami at-Tirmidhi, see:

Imran bin Husain reported that the Messenger of Allah [ peace be upon him ] dispatched an army and he put Ali bin Abi Talib in charge of it. He left on the expedition and he entered upon a female slave. So four of the Companions of the Messenger of Allah scolded him, and they made a pact saying: “..If we meet the Messenger of Allah we will inform him of what Ali did...” When the Muslims returned from the journey, they would begin with the Messenger of Allah and give him Salam, then they would go to their homes. So when the expedition arrived, they gave Salam to the Prophet, and one of the four stood saying: “O Messenger of Allah ! Do you see that Ali bin Abi Talib did such and such.” The Messenger of Allah turned away from him. Then the second one stood and said as he said, and he turned away from him. Then the third stood before him, and said as he said, and he turned away from him. Then the fourth stood and said as they had said. The Messenger of Allah faced him, and the anger was visible on his face, he said: ‘What do you want from Ali ! What do you want from Ali ! What do you want from Ali ! Indeed Ali is from me, and I am from him, and he is the ally of every believer after me’ [ Jami At-Tirmidhi 3712 ]

This particular narration is weak because it contains Yazeed Al Dabghee who has been declared weak by the scholars. Even if we for the sake of argument accept this narration, its text does not in any way demonstrate that the slave girl was raped by ‘Ali. But before we rebut the view that ‘Ali raped the slave girl, it is first important to mention the story behind this particular narration. The Prophet had dispatched ‘Ali, alongside 300 men to Yemen on an expedition. The army led by ‘Ali was very successful in Yemen and they captured a lot of war booty. It was over this war booty that a dispute began between ‘Ali on the one hand and his soldiers on the other. The Muslims, thanks to the great leadership of ‘Ali, had conquered many camels and enough linen to clothe the whole army. ‘Ali however decided that the fine linen must be handed over to the Prophet *untouched*. In addition he forbade his soldiers from taking possession of the camels. Al-Bayhaqi narrates from Abu Saeed that ‘Ali prevented his soldiers from riding the camels of the war spoils that they had acquired. Ibn Kathir further narrates that the soldiers in Ali’s army were very upset with ‘Ali for denying them linen and camels from the spoils. It is further reported that they were not pleased

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**72:** In Islam a concubine who gave birth to a child by her master became an “umm walad” [ lit. “mother of a child”]. She could not be sold, and became automatically free on her master’s death. She could, of course, be freed before that time, and many women were [ the Qur’an encouraged this ] . According to Islam all children born of legal concubinage were legitimate and usually inherited equally with children born in wedlock [ O. Patterson, “Slavery and Social Death: A Comparative Study” ( 1982 ) , p. 228 ]. Some scholars said that the master had the possibility of not acknowledging the paternity of the child [ in order to prevent his slave girl from becoming an umm walad ] , other scholars however rejected this view. One source states: “... an effort was made to restrict the right of disputing the paternity in the case of the umm al-walad also. Hadiths are quoted from ‘Umar and Ibn ‘Umar to the effect that no one who has had intercourse with a slave girl has the right to dispute the paternity of her child, even if he says he used ‘azl or if there is another paternity possible. The Malikis and Shafi’is agree with this..” [ see: “E.J. Brill’s First Encyclopaedia of Islam 1913-1936” by M. Th. Houtsma ( Brill , 1987 ) , p. 1014 ]. The fact that according to Islam an umm walad could not be sold anymore, meant that a master was bound to provide adequately for her until her death [ unless she was freed ] , barring bankruptcy [ in case he was not rich ]. For this reason a concubine could not demand children from her master. Only a [ free ] wife was given such right.

with the fact that 'Ali himself was accorded a special share of the Khums [ i.e. the fifth of war booty ]. [73](#) 'Ali cannot be blamed for this privilege of taking an extra share of the Khums, which is a right accorded to the Prophet's family in the Quran. Nonetheless, the people had anger in their eyes, so they took special offense when 'Ali took a slave girl for himself from the Khums [ and had sexual contact with her after the waiting period of one menstrual cycle [74](#) ]. The soldiers wrongfully accused 'Ali of being a hypocrite for denying the clothes and camels to the men but for himself taking a slave girl. For this reason we read in the above narration that some Muslims went to the Prophet in order to criticize and defame 'Ali. This of course made the Prophet angry, since these men had no right to criticize 'Ali for his decisions in regards to the distribution of the spoils of war.

The claim that the slave girl was raped by 'Ali is refuted by the fact that Muslims were not allowed to torment and harm their female slaves [75](#) , and the historical fact that many Arabian women in ancient wars used to beautify themselves for the soldiers who won the battle. [76](#) In addition we read in another source that 'Ali himself as a Caliph [ after the death of the Holy Prophet ] always reminded his soldiers that it was forbidden to *harm* any woman of the enemy. Imam Tabari reports:

According to Abu Mikhnaf – Abd al-Rahman b. Jundab al-Azdi - his father: On every occasion on which we confronted an enemy 'Ali would command us in these words: "Do not fight them unless they attack you first. You, praise be to God, have a good case and holding back from fighting them until they attack will strengthen it. If you fight them and defeat them, do not kill the fugitives, do not finish off the wounded, do not uncover their "nakedness", and not mutilate the slain. If you reach their abodes, do not tear aside a curtain, enter a dwelling without permission, or seize any of their property apart from what you find in the army camp. *Do not harm against any woman, even if they utter abuse against your honor* [77](#)

It would be absurd to argue or claim that the same man who instructed his soldiers not to undress [78](#) and harm any woman of the enemy, would himself harm a woman by raping her ! In the light of all these previous given facts, we conclude that 'Ali had sex with the woman by mutual consent [ which is not an absurd claim, since Arabian women in ancient wars used to beautify themselves for the soldiers who won the battle ]. Only a denial of the historical context behind this narration, and a refusal to accept the Islamic teachings that clearly state that a master was forbidden to harm and torture his female slave, result in the *erroneous* view that the son-in-law of the Prophet was a rapist !

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- [73](#): The hadith in Bukhari, in which we read that Buraida was angry at 'Ali [ ra ] for taking from the Khumus [ part of the war booty ] , refers to the same incident [ see: Sahih Bukhari, Volume 5, Book 59, Number 637 ].
- [74](#): We conclude that 'Ali had sex with his slave girl after the waiting period of one menstrual cycle, since the Messenger of God is reported to have said: "...It is not permissible for a man who believes in Allaah and the Last Day to have intercourse with a captured woman [ i.e. his slave girl given to him after the distribution of the booty ] until he has established that she is not pregnant." [ Abu Dawud 2158 ]
- [75](#): Rape is a cruel act. It is a sexual form of torture that harms a woman in various ways [ see: "World Report on Violence and Health" ( World Health Organization, 2002 ) p. 149 ]. The fact that a master in Islam was forbidden to harm his slave girl, clearly demonstrates that no Muslim was allowed to rape his slave girl. The Prophet said: "There is to be no harm done or reciprocation of harm" [ Ibn Maajah 2340 ]. If a master could not accept the decision of his female slave not to have sexual relations with him, he could sell her to another person [ who would have no problem with the choice of the female slave to refrain from sex with her master ]. The Prophet is reported to have said: "...and your slaves, see that you feed them such food as you eat yourselves and dress him with what you yourself dress. And if they commit a fault which you are not inclined to forgive then sell them, for they are the servants of Allah and are not to be tormented..." [ source: Ibn Sa'd, "al-Tabaqatul Kabir" , Vol. II:1 , Leiden: E.J. Brill, 1912 , p. 133 ]
- [76](#): One source in its discussion on ancient wars in the Middle East states: "...women .. followed armies to do the soldiers' laundry ... They would often dress in such a way as to attract the soldiers who won the battle..." [ Source: Prof. Matthew Schwartz & Prof. Kalman J. Kaplan "The Fruit of Her Hands: The Psychology of Biblical Women" ( William. B. Eerdmans Publishing Company, May 2007 ) , pp. 146-147 ]
- [77](#): See: Imam Tabari: "The History of al-Tabari" , Vol. XVII [ State University of New York Press 1996 ] , p. 30
- [78](#): The fact that Muslims could not by force undress anyone, and were not allowed harm any woman of the enemy, confirms that only by mutual consent sex was permissible between a soldier and his female slave !



## Appendix A: Capture and Marital Bonds

At pp. 5-6 of this paperwork we quoted the view of Imam Abu Hanifa and others that captivity did not nullify the marriage-tie between a *captive* woman and her husband or vice versa. Imam Abu Hanifa was of the opinion that the wedlock would only be broken: "...if one of the two [ spouses ] were taken to the territory of Islam before the other.." [ Shaybani's Siyar ]. Imam Shafi disagreed with this view, and argued that the marital bond between a captive woman and her husband was also broken if both were captured together and taken at the same time to the territory of Islam. In other words Shafi was of the opinion that captivity *immediately* nullified the marital bond between a captive woman and her husband. We are of the opinion that the next narration rebuts this view:

Narrated by Abdullah ibn Mas'ud: "...When captives were brought to the Prophet [ peace and blessings be upon him ] he gave away families together through dislike of separating them..." [ al-Tirmidhi 3373 ]

The fact that the Prophet disliked to separate a female captive from her captive husband, indicates that their marriage-tie was not annulled after capture. If their marriage-tie was annulled because of captivity, the Prophet would not have disliked to separate them, but prefer to separate them [ since it would be very painful for a captive couple, to live daily closely next to each other without being able to touch or kiss each other ]. Therefore we are of the opinion that this hadith strongly supports the conclusion of Imam Abu Hanifa that the wedlock would only be broken: "...if one of the two [ spouses ] were taken to the territory of Islam before the other.." [79](#) In other words if both spouses were captured *together* and taken at the same time to the *territory of Islam*, no divorce took place. [80](#)

## Appendix B: In the Presence of their Husbands ?

At pp. 12-15 of this work we discussed the hadith about the female prisoners taken at Atwas by the Muslims, and *disproved* the claim that these women were raped. In addition we would like to point out that many polemics against Islam often quote an incorrect translation of this narration, in order to back up their view that a Muslim could have sexual relations with a female slave [ prisoner of war ] in the presence of her husband ! This view is based on the English translation of the online version of this hadith in Sunan Abu Dawud. The online English translation of this narration reads:

Abu Said al-Khudri said: The apostle of Allah [ may peace be upon him ] sent a military expedition to Awtas on the occasion of the battle of Hunain. They met their enemy and fought with them. They defeated them and took them captives. Some of the Companions of the Apostle of Allah [ may peace be upon him ] were reluctant to have intercourse with the female captives *in the presence of* their husbands who were unbelievers. So Allah, the Exalted, sent down the Quranic verse, 'And all married women [ are forbidden ] unto you save those [ captives ] whom your right hands possess'. That is to say, they are lawful for them when they complete their waiting period. [ Source: Sunan Abu Dawud, Vol. 2, Nr. 2150 ]

Bassam Zawadi pointed out that the words "...in the presence of..." are nowhere to be found in the Arabic text of this narration. [81](#) A more accurate translation of this narration would be the next one:

[79](#): See: "The Islamic Law of Nations: Shaybani's Siyar", ( The John Hopkins University Press, 2001 ) , p. 117

[80](#): Sarakhsi, Shams al-Din Muhammad b. Ahmad b. Sahl, "Kitab al-Mabsut" [ Cairo 1324 ] Vol. V , pp. 50-51

[81](#): See: [http://www.call-to-monotheism.com/does\\_islam\\_permit\\_muslim\\_men\\_to\\_rape\\_their\\_slave\\_girls\\_](http://www.call-to-monotheism.com/does_islam_permit_muslim_men_to_rape_their_slave_girls_)

Abu Sa'id al-Khudri reported that at the Battle of Hunain Allah's Messenger sent an army to Autas and encountered the enemy and fought with them. Having overcome them and taken them captives, the Companions of Allah's Messenger [ may peace be upon him ] seemed to refrain from having intercourse with captive women because of their husbands being polytheists. Then Allah, Most High, sent down regarding that: "...And women already married [ are forbidden ] , except those whom your right hands possess [ Surah An-Nisa, v. 24 ]" [ i. e. they were lawful for them when their 'Idda period came to an end ]

In the *Seerah* moreover we read that these female prisoners were left behind by their husbands, who fled to Nakhlah and the city of al-Ta'if. <sup>82</sup> This fact also shows us how *erroneous* the translation "...in the presence of their husbands.." is [ the text in the *Seerah* clearly tells us that only the women and the children were taken as prisoners ]. In "Appendix: A" and at pp. 5-6 of this paperwork we also demonstrated that the marital bond between captive woman and her husband was not broken if both were captured together, and taken to the "*territory of Islam*" at the same time. It was forbidden for a Muslim to approach such a woman, since she was still married. Shaybani in his "*Siyar*" states:

I [ Shaybani ] asked: "if the army captured a *married women* a day or so before her husband, do you think that marital status between the two would remain valid ?" 243. He [ Abu Hanifa ] replied: "Yes" 244. I asked if the span between their respective captures was either equivalent to three menstrual periods or if [ the wife ] had actually experienced three menstruations and had adopted Islam, but before the army left the territory of war her husband was [ also ] captured and became a Muslim, do you think that their marital status would remain valid ? 245. He replied: "Yes" 246. I asked: "Why ?" 247. He replied: "Since they had not yet been taken to the territory of Islam their [ marital ] status would be regarded as if they had been captured together". [ Tahawi, "Mukhtasar", p. 286 ] 248. I asked: "If the husband were captured before the wife and she after him, do you think their [ marital ] status would remain unchanged as you have described it ?" 249. He replied: "Yes" 250. I asked: "If one of the two - husband or wife - were captured and taken to the territory of Islam and the other were captured later ?" 251. He replied: "Their marital status would no longer be valid" 252. I asked: "Why ?" 253. He replied if one of the two [ spouses ] were taken to the territory of Islam before the other, the wedlock would be broken 254. I asked: "Why is that so ?" 255. He replied: if the wife had been allotted to the share of one [ of the Muslims ] and she became a Muslim, do you not think that he would have the right to have intercourse with her or to marry her if he so desired ? 256. I said: "yes indeed" 257. He said: "Do you not think that the wedlock was dissolved ? If her husband , who was in the territory of war, had still preserved the marital bond with her and her wedlock with him were not terminated, the [ Muslim ] would have no right to have sexual intercourse with her or to marry her, but she would be lawful to the latter if her wedlock with her [ former ] husband had been broken. It has been related to us that God's saying, "Do not marry...married women, except those whom your right hand possesses [ i.e. slave women ]", was revealed in connection with a woman who had a husband, was taken as a captive , and whose [ new ] master had intercourse with her, after waiting one menstrual period [ to be sure she was not pregnant ]. And it has been related to us from the Prophet that he prohibited [ men ] from intercourse with pregnant women taken as fay' until they have been delivered and he prohibited [ men ] from having intercourse even with women who are not pregnant until their clearance from pregnancy is established by one menstrual period .... <sup>83</sup>

All these facts disprove the claim that Muslims were permitted to have sex with female slaves in the presence of their captured husbands. Not a single narration or quranic verse supports such a view !

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- 82: See: Muhammad Haykal, "The Life of Muhammad" ( Islamic Book Service , Lahore 1997 ) , pp. 418-49. In other words the companions of the Prophet thought that it was forbidden to have intercourse with these women, since their pagan husbands were still alive [ because of their escape from the battlefield ].
- 83: See: "The Islamic Law of Nations: Shaybani's Siyar"( The John Hopkins University Press 2001 ) pp. 116-18

### Appendix C: The Prophet Prohibited the Sale of an Umm Walad

At p. 23 we mentioned that a concubine who gave birth to a child to a child by her master became an *umm walad* [ lit. mother of a child ]. According to Islamic law an *umm walad* could not be sold anymore, and became automatically free on the death of her master. It is generally believed that these rules were first ordained by 'Umar Ibn al-Khattab. Maulana Saeed Ahmad refutes this view:

It is generally believed that *umm walad* could be sold and bought before the times of Sayyidina Umar [ ra ] , but he disallowed it when he became Khalifah. It is stated by Sayyidina Jabir ibn Abdullah [ ra ] that they used to sell the *umm walad* during the times of the Messenger of Allah [ saaws ] and Sayyidina Abu Bakr [ ra ] , but Sayyidina Umar [ ra ] disallowed the practice strictly so they repented over their past conduct [ Abu Dawood ]. However , the truth is that even in the times of the Messenger of Allah [ saaws ] and Abu Bakr [ ra ] , buying and selling of *umm walad* was not allowed. Perhaps, it might have been permitted in the very beginning. The prophet [ saaws ] had forbidden it in his last days. Sayyidina Ibn Umar [ ra ] has reported from the Messenger of Allah [ saaws ] : "...The Messenger of Allah disallowed the selling of *umm walad*. He said, "They must not be sold, or gifted, or inherited. As long as the master is alive, he may enjoy her but when he dies, she will be free" [ Muwatta Imam Malik, Dara Qutni, Neel al-Awtar ] .. This leaves us to examine the narrative of Sayyidina Jabir [ ra ]. The meaning of what he says is simply that the companions sold the *umm walad* while the Messenger of Allah [ saaws ] was alive. However, this does not pre-suppose that the Messenger of Allah [ saaws ] had known of one or two cases of that nature and he had not disallowed it. Indeed, Imam Bayhaqi has said: "...We do not learn of it in any way that the Prophet [ saaws ] was aware of that, the selling of *umm walad* and he let them do it .." [ Neel al-Awtar, Shawkani V. 6, p. 223 ]. We can say the same thing about Sayyidina Abu Bakr [ ra ] whose time extended over two years and a few months. During this period, he was occupied deeply in halting the turmoil that followed the death of the Holy Prophet [ saaws ]. He had not time to turn to issues like the sale of *umm walad*. When Sayyidina Umar [ ra ] became Khalifah, he devoted himself to a number of such issues and gave orders for proper application, as is the case with *umm walad*. However, it does not follow that Sayyidina Umar [ ra ] decided on the basis of his own judgement or went contrary to the Prophet's orders. Sayyidina Umar [ ra ] could, of course, apply and explain any command of the Prophet [ saaws ] but he could never go against them. The jurists are widely divided on the issue of the sale of *umm walad*. Ibn Kathir has composed a book on the subject but the general tendency is towards its prohibition. Qadi Shawkani has argued that if those Ahadith are understood to be authentic which declare that *umm walad* is free [ and almost all the ulama regard them as authentic ] then this question is automatically solved and it is confirmed that a *umm walad* may not be sold for that is not allowed ... [84](#)

### Appendix D: The Golden Rule in Islam

The Prophet instructed Muslims to follow the golden rule, i.e. they were told to treat others in the same way as they would like to be treated by them. In Sahih Muslim we read that the Prophet said:

Whoever wishes to be delivered from the fire and enter the garden should die with faith in Allah and the Last Day and should treat the people as he wishes to be treated by them [ Sahih Muslim, Book 20, 4546 ]

The text of the above narration demonstrates that a master was not allowed to treat his slaves in a way he himself would *not* like be treated by others. If he did, he would be guilty of sinful behavior !

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**84:** Maulana Saeed Ahmad, "Slavery in Islam", trans. by Rafiq Abud Rehman ( Darul Ishaat 2000 ) , pp. 179-80

## Appendix E: Could a Wife prevent her Husband from taking a Concubine ?

It is interesting to note that according to various classical jurists, a wife had the right to stipulate in her marriage contract that her husband was not allowed to take a concubine or another wife. In other words she could stipulate in her marriage contract that her husband was not allowed to have sex with his slave girl. It is reported that Ahmad Ibn Hanbal deemed such conditions as valid, see:

Ahmad said, “..These conditions , [ if she stipulates them ] , are all lawful for her , and if he marries [ another wife ] or takes a concubine, she is given the option of choosing to remain married to her husband if she wishes, or of separating from him if she wishes. The Prophet said, ‘The best of conditions is the one that fulfills the prerequisites for women being lawful to’ ..”. Ishaq [ Ibn Raywayh ] said, “As he said”. [85](#)

Ibn Qudamah in his book “Al-Mughni” wrote:

In conclusion, then, the conditions of the marriage contract are divided into three types, one of which must be adhered to, which is of benefit to the wife, such as her being able to stipulate that he her cannot make her move from her house or city, or travel with him, or take another wife or a concubine. He has to adhere to these conditions, and if he does not, then she has the right to annul [ end ] the marriage .. [86](#)

There are many examples of Muslim women who made good use of this right. Umm Salama and Umm Musa were two famous women of this kind. Umm Salama was a noble woman who had been married twice before she met her third husband, Abu al-Abbas [ the future Caliph of the Abbasid dynasty ]. She married him at her own initiative after she sent her messenger with a proposal. Al-Abbas, happily, accepted the offer, promising her , on oath, that he would never marry another woman or even take a concubine. Al-Abbas lived up to his word and did not have another wife until his demise. Umm Musa, an energetic lady of Arab descent, married Mansur before he assumed power as a second Caliph in Baghdad. In her marriage contract, she demanded that he would not marry another woman or take any concubines as long as she lived. And indeed he fulfilled his promise. [87](#) We also read Ibn Abd al-Wahhab deemed conditions like these as valid:

Ibn Abd al-Wahhab defined two possible types of conditions in marriage - valid and invalid. Valid conditions include the *legal transaction* of marriage, such as handing the *bride* over to the *groom*. Although the handing over of the bride is not specified by the Quran and hadith, it is clearly a requirement for marriage because a marriage cannot exist if the two spouses have no access to each other [ Muhammad Ibn Abd. Al-Wahhab, “Kitab al-Nikah” p. 661 ]. Other valid conditions are those that profit or benefit the woman, such as specifying money for her support, stipulating that the man may not remove the woman from her home [ i.e. , from her hometown ] or country, or that the husband will not marry additional wives or take a concubine [ see Muhammad Ibn Abd. Al-Wahhab, “Kitab al-Nikah” p. 661 ] [88](#)

[85](#): See: “Chapters on Marriage and Divorce: Responses of Ibn Hanbal and Ibn Rāhwayh”, translated with introduction and notes by Susan Ann Spectorosky [ University of Texas Press , 1 June 1993 ] , pp. 183-184

[86](#): See: “Al-Mughni”, part 7, Kitaab al-Nikaah, cited in: “Islam: Questions and Answers - and Islamic Rulings: Transactions - Part 3”, Vol. 24, M. Saed Abdul-Rahman [ MSA Publication Limited, 2004 ] p. 363

[87](#): H.A. Jawad, “The rights of women in Islam: an authentic approach” [ Palgrave Macmillan, 1998 ] 119-20

[88](#): See: “Wahhabi Islam: From Revival and Reform to Global Jihad” by J. Delong-Bas [ Oxford 2004 ] , p. 147

## Appendix F: Bible Permits Rape of Female Prisoners

Most Christian missionaries are hypocrites when they criticize Islam for its laws on slavery. Earlier we pointed out that Muslim men were permitted to have sexual relationships with their female slaves. In other words Islam permitted concubinage. In response to this Islamic fact we hear from many Christian Missionaries today statements like "...Muhammad is a false and evil Prophet since he permitted men to have sexual relationships with their female slaves...". In order to discredit our religion some more they even argue that Islam allowed its followers to rape their female slaves. We disproved this view earlier in our paperwork. In this appendix we shall demonstrate that it was not Islam, but the Bible that permitted its followers to rape their prisoners of war. The Bible states:

### Deuteronomy 21:10-14, King James Translation

[ 10 ] When thou goest forth to war against thine enemies, and the Lord thy God hath delivered them into thine hands, and thou hast taken them captive, [ 11 ] And seest among the captives a beautiful woman, *and hast a desire unto her*, that thou wouldest have her to thy wife; [ 12 ] then thou shalt bring her home to thine house, and she shall shave her head, and pare her nails; [ 13 ] And she shall put the raiment of her captivity from off her, and shall remain in thine house, and bewail her father and her mother a full month: and after that *thou shalt go in unto her*, and be her husband, and she shall be thy wife. [ 14 ] And it shall be, if thou have no delight in her, then thou shalt let her go whither she will; but thou shalt not sell her at all for money, thou shalt not make merchandise of her, *because thou hast humbled her*.

When Christian missionaries are confronted with this passage in debates, they reply:

Looking at the passage there is not even the hint of a rape. In fact, just the opposite is given. When a woman who is not a Jew is made a captive, and the Israelite falls in love with her because of her beauty, he is not allowed to touch her for those 30 days so that she may mourn the loss of her family. The intention of this law is to protect her against rape, and give her time to get used to the Jewish culture.

This argument however is incorrect. First it denies the fact that a female prisoner was coerced into marriage with her Hebrew captor [ which is equal to rape ] [89](#) . Secondly this argument is based on a non-literal translation of the *Hebrew* text in verse 11. A literal translation of the Hebrew text reads:

[ v. 11 ] "...and hast seen in the captivity a woman of fair form, "and hast delighted in her" , and hast taken to thee for a wife." [ *Young's Literal Translation of the Bible* , Greater Truth Publishers 2005, Dt. 21:11 ]

The literal translation of the Hebrew text states that the Jewish soldier "enjoyed" the woman he took captive. The expression "and hast delighted in her" is a reference to sexual intercourse. [90](#) The renown Bible scholar Mathew Poole confirms this view. In his commentary on v. 11 Poole writes:

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**89:** Eerdmans Dictionary of the Bible states: "...Desirable virgins captured on the battlefield could be forced to marry their captors..." [ Eerdmans Dictionary of the Bible ( Wm. B. Eerdmans Publishing , 2000 ) , p. 1359 ]

**90:** In various traditional Jewish sources, like the Talmud, we read that a soldier is permitted to have sex with his female captive before he decides to marry her [ See: Tosefot Kiddushin 22a ; Kiddushin 21b ]

11.... "hast taken delight in her" ; which may be a modest expression for lying with her, and seems probable, because it is said, ver. 14 "that he had humbled her", to wit, by military insolence, when he took her captive, not after he had married her, for then he would have expressed it thus, "because thou hast married her", which had been more emphatical than to say, "because thou hast humbled her" [91](#)

Let us read again Deut. 21:14: "...And it shall be, if thou have no delight in her, then thou shalt let her go [ *shalah* ] whither she will ; but thou shalt not sell her at all for money, thou shalt not make merchandise of her, because thou hast *humbled her*.. [ *initah* from the root *anah* ] ..." [ 21:14 ] The Hebrew verb "*anah*" which is often translated as "*humbled her*" in this verse [ v. 14 ] , describes the harm done to the female prisoner. It is important to note that the Bible states that the woman was humbled by the Hebrew soldier immediately after v. 11 and v. 13 , in which we read that the Hebrew soldier had sex with her. In v. 11 it is said that the biblical warrior "enjoyed" the woman by intercourse [ "and hast delighted in her" ] [92](#) . In other words v. 11 describes the rape of the female prisoner. In case the Hebrew soldier wanted to marry his rape victim, he had to perform certain rituals [ see v. 12 ]. In v. 13 it is said that the soldier was permitted to consummate his marriage with her, after all the rituals had been performed [ "...and after that thou shalt go in unto her, and be her husband.." ]. The next verse [ v. 14 ] describes the situation of the captive woman after the consummation of the marriage, since the verse starts with the words: "...And it shall be, if thou have no delight in her, then thou shalt *let her go* [ *shalah* ].." [ 21:14 ]. The expression "let her go" [ *shalah* ] is elsewhere [ Deut. 24:1 ; Malachi 2:16 ; Jer 3:8 ] the technical term for *divorce* [93](#) , and that is obviously its meaning here, since the previous verse [ v. 13 ] talks about the consummation of the marriage. Therefore we conclude that the use of the verb "*anah*" in v. 14 , demonstrates that the female prisoner was forced twice into sexual intercourse by her captor [ one time in v. 11, and another time in v. 13 ]. Classical reference books also state that the verb "*anah*" signifies an act of violence. For example, the concordance of Madelkern offered the Latin equivalent "opprimere, vin affere" [94](#) , which refers to violent and oppressive action. [95](#) Francis Brown, S.R. driver, and Charles A. Briggs translated the verb as "1. humble, mishandle, afflict ; 2. humble a woman by cohabitation 3. afflict ; 4. humble, weaken". [96](#) Wilhelm Gesenius translated the verb as "to weaken a woman through rape". [97](#) If the captive woman had sex with the Hebrew soldier by mutual consent, or if she married him on her own free will, the Bible would have never said that the she was humiliated or humbled [ *anah* ] by her captor. [98](#) In other words the fact that the Bible states that the woman

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- [91](#): See: Matthew Poole's Commentary on the Holy Bible, vol. 1: Genesis- Job ( Hendrickson , 1985 ) p. 376
- [92](#): Mathew Poole comments: ".....'hast taken delight in her ' ; which may be a modest expression for lying with her, and seems probable, because it is said, ver. 14 "that he had humbled her", to wit, by military insolence, when he took her captive, not after he had married her, for then he would have expressed it thus, "because thou hast married her", which had been more emphatical than to say, "because thou hast humbled her..." [ See: Matthew Poole's Commentary on the Holy Bible, vol. 1: Genesis- Job ( Hendrickson Publishers 1985 ) p. 376 ]. Other sources also confirm that the expression 'hast taken delight in her' refers to the sexual act [ See: John van Seeters, "A Law Book for the Diaspora: Revision in the Study of the Covenant Code" ( Oxford University Press , 2003 ) , p. 93 ; see also Bernard S. Jackson: "Wisdom-laws: A Study of the Mishpatim of Exodus 21:1-22:16" ( Oxford University Press, May 4, 2006 ) , pp. 116-117 ]
- [93](#): Bella Vivante writes in her work about women in ancient civilizations: "...Divorce in Hebrew is expressed by verbs meaning 'to drive away' or 'expel' ( *geresh* ; *shalah* ) and the divorcee or object of that verb is always female.." [ see: "Women's roles in ancient civilizations: a reference guide" ( Greenwood Press ,1999 ) 144 ]
- [94](#): S. Mandelkern, "Veteris Testamenti Concordantiae Hebraicae atque Chaldaicae" ( Tel Aviv, 1967 ) , p. 902
- [95](#): See: P.G.W. Glare, ed. , "Oxford Latin Dictionary", vol. 2 ( Oxford, UK: Clarendon Press 1973 ) , p. 1257
- [96](#): See: Francis Brown, S.R. Driver, and Charles A. Briggs, eds. , "Hebrew and English Lexicon of the Old Testament, based on the Lexicon of William Gesenius" ( Oxford: Oxford University press, 1951 ) , p. 776
- [97](#): W.Gesenius, "Hebräisches und Aramäisches Handwörterbuch über das Alte Testament" ( Springer ) p. 604
- [98](#): Some have argued that in this case [ deut. 21:14 ] the man humiliates the woman by not going ahead with the marriage. Prof. Caroline Pressle comments on this view and states: "... *Anah* used of women elsewhere in Deuteronomy, however, has to do with sexual abasement. Moreoever, the striking similarity between the motive clauses in Deut 21:14 and 22:29 makes it *extremely unlikely* that the same verb could refer to imposing *sexual relations on the women* in the one case (22:29) and withholding *sexual relations in the other*." [ Pressler 'The View of Women Found in the Deuteronomic Family Laws' ( Walter de Gruyter 1993 ) p.15 ]

was humbled [ *anah* ] [99](#) by her captor, shortly after the verses in which we read that he had sex with her, clearly proof that she was raped. Moses Maimonides, one of the greatest Torah scholars of all time, writes in one of his classic works: "...A soldier in the invading army may, if overpowered by passion, cohabit with a captive woman ... [ but ] he is forbidden to cohabit with her a second time before he marries her ... Coition with her is permitted only at the time when she is taken captive ... he must not *force* her in the open field of battle ... that is, he shall take her to a private place and cohabit with her ...." [100](#) The fact that Maimonides states that a soldier is only forbidden to force his female prisoner into sex in a public place ] , demonstrates that he deemed it lawful for a soldier to rape his female prisoner in a private place. Maimonides also said: "...A priest is permitted to have relations with a captive woman once, for permission to have relations with a captive woman is a concession to man's evil impulse; but he is not permitted to marry her.." [101](#) In other words biblical law made it legal for a priest to rape a female prisoner once. [102](#) Modern scholars like Athalya Brenner [103](#) , Saul M. Olyan [104](#) , Prof. Bernard S. Jackson [105](#) , Prof. Harold C. Washington [106](#) , Prof. Carolyn Pressler [107](#) and Susan Brooks Thistlethwaite [108](#) , also note that the Bible permits soldiers to rape their female prisoners of war. Athalya Brenner for example states:

we can see the taking of brides during the assertion of military power over conquered males at work in the Hebrew Bible. For example, a virgin captive who has been raped can be made wife and divorced but not sold into slavery, because the relationship began with a *rape* [ Deut. 21:14 ]. Thistlethwaite [ 'You May Enjoy the Spoil of Your Enemies' , pp. 64-65 ] addresses this concept with respect to Deut. 20.10-17 .. [109](#)

Saul M. Olyan writes:

Deut 21:10-14...when he wishes to be rid of the woman he captured in war if he no longer desires her: he must allow her to go where she wishes; he may not sell her nor may he abuse her *because he raped her* [110](#)

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- [99](#): G. W. Bromiley confirms that the use of the Hebrew word "anah" [ to "humble" or "humiliate" ] in Deuteronomy 21:14 , demonstrates that the captive woman was raped by her captor. He states: "...The general meaning of the Heb. Piel of "ana" is "humble" or "force into submission". In other passages where it denotes forcing sexual relations upon a woman the RSV renders it "humble" ( Gen. 34:2; Ezk 22:10 ) , "humiliate" ( Dt. 21:14 ) , "violate" ( 22:24, 29 ) or "force" ( 2. S 13:12, 14, 22, 32 ) .." [ See G. W. Bromiley 'International Standard Bible Encyclopedia:Q-Z' ( Eerdmans Publishing 1995 ) p. 49 ]
- [100](#): Maimonides, "Hilkhot Melakhim" 8:2-4. Others said that sex in public was also permissible: "...it seems to Rabbenu Tam [ c. 1100 – c. 1171 ] that a first cohabitation is permitted in war..", i.e. in *public*, and only the second cohabitation "is forbidden until she shall be a convert in his home.." [ Tosefot Kiddushin 22a ]
- [101](#): Maimonides *ibid.* ; See also Bavli Kiddushin 21b.
- [102](#): In another traditional Jewish source [ see: Hullin 109b ] it is explained that the Torah forbids a man a non-Jewess, but permits him the captive woman. Not only is she the vehicle by which he releases his lust, she is not even his first choice. The captive woman can be described as a consolation prize
- [103](#): Athalya Brenner is Professor of Hebrew Bible / Old Testament in the Biblical Studies section of Religious Studies at the Department of Art, *Religion and Culture*, Faculty of the Humanities, university Amsterdam.
- [104](#): S. Olyan is Samuel Ungerleider Jr. Prof. of Judaic Studies & Religious Studies at Brown University
- [105](#): Bernard S. Jackson is alliance Professor of modern Jewish Studies. Prof. Jackson founded The Jewish Law Annual [ which encompasses all periods and approaches to *Jewish Law* ] and edited it from 1978 – 1997.
- [106](#): Harold C. Washington is Professor of Hebrew Bible at Saint Paul School of Theology in Kansas City.
- [107](#): Carolyn Pressler is Professor of Biblical Interpretation at United Theologica Seminary of the Twin Cities.
- [108](#): Rev. Susan Brooks Thistlethwaite is president of Chicago Theological Seminary and senior fellow at the Center for American Progress. She has been a professor of theology at the seminary for twenty years.
- [109](#): Athalya Brenner, "Feminist Companion to the Latter Prophets" [ T & T Clark Ltd , 2004 ] , pp. 337-338
- [110](#): Saul M.Olyan, "Rites and Rank: Hierarchy in Biblical Representations of Cult" [ Princeton , 2000 ] , p. 166

Prof. Pressler in her work "The View of Women Found in the Deuteronomic Family Laws", rebuts the claims of various Christian apologists that the Bible forbids rape of captive woman. She states:

The law set out in Deut. 21:10-13 is drafted in second person singular. It directly addresses the warrior, and, in the first place, regulates his behavior. Verse 12 changes to third person feminine and concerns the behavior of the woman. The switch from direct address to third person may indicate that the warrior addressed is responsible for seeing that the woman's actions are carried out.

One's interpretation of Deut 21:10-13 depends largely on where one understands the *protasis* to end and the *apodosis* to begin. It is possible to interpret the law as if the *protasis* extends only through v.11a: "when you go out to battle against your enemies and the Lord your God gives them into your hands, and you take them captive, if you see among the captives a beautiful woman and desire her". The *apodosis* then begins with the command: "Then you shall take her as your wife, and bring her to your household". It is also possible to extend the *protasis* through v. 11 to the *athnah* at v. 12. The law then reads: "When you go out to battle against your enemies and the Lord your God gives them into your hands, and you take them captive, if you see among the captives a beautiful woman whom you desire and want to marry and bring into your household, then she shall shave her head, and pare her nails".

This latter translation is preferable for two reasons. First, beginning the *apodosis* at v. 11b creates a sequence of events which is out of order. The warrior addressed by the law is to marry the woman. Then the woman is to perform three ritual actions and mourn her parents for a month, after which the man is to go in to her and marry her. The man appears to be told to marry the woman twice. The awkwardness of having the man marry the captive woman before and after her month of mourning is eliminated by extending the *protasis* through v. 12 a. If the man wishes to marry the woman and bring her into his household, then she must perform the rituals and mourn her parents. After that he may go to her and marry her. Second, there is a change of person at the *athnah* in v. 12. The law begins in second person, addressing the warrior who desires the woman. At the *athnah* in v. 12, it switches to third person feminine singular, and states actions that the woman is to perform. This break in syntax may well signal the break between the *protasis* and the *apodosis*. We will argue that this law provides a means for the man to marry a woman in a case where the normal procedures for marriage are not possible, and provides a way for the foreign woman to be assimilated into an Israelite household.

Commentators frequently understand the purpose of this law as a prohibition against rape on the battlefield. "It is unlikely that this was the aim of the law". We have argued that the law should not be translated as: "If you desire her, then you shall marry her". Rather the man's desire to marry the woman is of the *protasis*. The law has to do with a case where a man wishes to marry a foreign captive; it then provides a means for him to do so. Moreover, the law is concerned with what happens within the household, *not* what happens on the *battlefield*. All of the actions commanded by the *law* take place within the household ... the law has two main purposes. The first purpose seems to be to provide a legal means for the man to marry a woman in a situation where the normal procedures for contracting marriage are impossible. Marriage in the ancient Near East normally involved a contractual arrangement between the groom or his parents and the parents of the bride. CH 128 and CE 27 and 28 appear to state that the existence of such a contract determined whether the relationship between a man and a woman was considered a legal marriage. A contractual arrangement with the woman's father, mother, brother or master *appears to be constitutive of marriage* in ancient Israel as well. In the case of the captive woman, such a contract is not possible. The law thus provides an *alternative way* for the man to marry the woman...Did the law intend to prohibit a man from having sexual relations with a captive female slave whom he did not marry? We have already suggested that the phrase "...chashaq laqach 'ishshah.." belongs to the *protasis* rather than to the *apodosis*. That being the case, "there is nothing in the law" which prohibits the man from engaging in sexual relations with the woman without marrying her. Rather, the law simply sets forth a procedure for marrying the woman, should that be what the man chooses .... [111](#)

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**111:** Pressler, 'The View of Women Found in the Deuteronomic Family Laws' [ Walter de Gruyter 1993 ] 10-14



Prof. Bernard S. Jackson writes:

Deut. 21:10-14. The law envisages, first, that captives are taken. Their status is therefore already that of slaves [ v. 10 ]. An Israelite then sees, amongst them, a beautiful woman, “desires her” [ v. 11 ]. Despite the RSV translation [ above ], this “refers simply to the sexual act” [ see: John van Seeters, “A Law Book for the Diaspora: Revision in the Study of the Covenant Code”, Oxford University Press 2003, p. 93 ] ; the captor here is simply exercising over the woman his rights as a slave owner. <sup>1</sup> The text then proceeds with humanitarian requirements [ vv. 11-12 ], leading to a change in the woman’s status. What status is thereby created ? Tosato argues that she is a “pilegish”, a free woman who is a secondary wife. But can such secondary wives, in principle, be sold ? If not, the final provision, in v. 14, banning her sale for Money, would be otiose. In fact, there is no trace in the Hebrew Bible [ unlike the ancient Near East ] of any institution of selling wives [ even in the context of debt slavery, where we do hear of the sale of children ] . It would thus appear that the status created in v. 13 is that of a slave concubine rather than that of a wife. Once her status has been altered in this way, the master cannot revert to treating her as disposable property. But is this because of her status as a slave concubine, or for some other reason ? The motive given in v. 14 is “since you have humiliated her”. The term used is the same as that which provides the motivation for the Deuteronomic rape law: [ Deut. 22:29 ], and there the rapist has an obligation to marry his victim. Both laws contemplate the same sequence of events: rape followed by regularization of the relationship, followed by contemplation of its possible termination <sup>112</sup>

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- 1: In Islam it was also permissible for a slave owner to have sex with his slave girl, however he was not allowed to rape her. Many reliable narrations clearly demonstrate this [ see pp. 7-18 of this booklet ].

Susan Brooks Thistlethwaite writes:

The theological purposes read into the conduct of biblical war are to serve Yahweh and the ends of Yahweh. These are not always the expedient of the triumph of Israel. The destruction of Israel is also interpreted as serving the ends of Yahweh, namely the punishment of the disobedient Israel. The larger paradigm is the threat of chaos [ disobedience ] and the assertion of order [ obedience ] . Into this overarching paradigm comes the definition of women and their sexuality. Women, symbolizing chaos are a logical choice for playing out scenarios of control. It is interesting to observe as Dorah Setel, that when Israel’s defeat in war is threatened, the female is very explicitly blamed as the cause of evil and disruption since Israel has been “playing the whore”. The emergence of objectified female imagery in Hosea and the other literary prophets can be seen as related to the intellectual and psychological disruptions caused by political events” [ see: pp. 94-95 ]. That is, the disruption of political events is referred, psychologically, to the *threatened chaos the female body* already symbolized for the community. In theological terms the function of war is to subdue chaos and to achieve obedience to the purposes of Yahweh. The symbol of the female as chaotic and evil is employed in various contexts to describe disobedience and its consequence, defeat. Similarly, obedience to the purposes of Yahweh has, as one of its designated spoils, the enjoyment of female bodies and ultimately, therefore, the possession of legitimated offspring. Is rape of women in war one of the ways to pursue “Holy War” ? On one level, because the biblical definition of women is as the sexual property of designated males, biblical writers did not recognize rape in war under their own designations of rape as theft of sexual property. It was not rape by their lights, since no sexual property holder was left alive to be offended...And, whatever definition biblical writers themselves held of rape, the fact remains that female captives were sexually violated against their will, i.e. they were raped. In this limited sense of the control of the chaotic female nature being a symbol of the order established through war, the “enjoyment of the spoils” is a way of working out Yahweh’s purposes in war, i.e. rape does serve the purposes of “Holy War”. <sup>113</sup>

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<sup>112</sup>: B. S. Jackson: “Wisdom-laws: A Study of the Mishpatim of Exodus 21:1-22:16” [ Oxford , 2006 ] 116-117

<sup>113</sup>: Susan Brooks Thistlethwaite: “You May Enjoy the Spoil of Your Enemies : Rape as Biblical Metaphor for War” , in: Semeia 61, edited by Claudia V. Camp , Carole R. Fontaine [ Scholars Press, 1993 ] , pp. 68-69

Prof. Harold C. Washington states:

Warfare for the purpose of seizing women, however does appear in biblical narrative [ Jud. 21.8-12 ] , and in Ugaritic epic [ KTU 1.14-16 ] , where the hero Kirta stages a military expedition to capture a woman from a neighboring city. Rape has accompanied warfare in virtually every known historical era. Hence biblical commentators sometimes regard Deut. 21.10-13 as a prohibition of rape on the battlefield. This is not the case, however. Although the law addresses the soldier [ “when you go out to battle against you enemies” 21.10 a ] , it governs conduct after the victorious completion of combat: “and the Lord your God gives them into your hands” [ 21.10 b ]. The setting is one where a town has fallen and the conquering soldiers are assembling captives from among the survivors. The law does not curtail men’s rape and subsequent killing or abandonment of women during combat [ cf. 20.14 ] . If the law is not concerned with the problem of rape in battle **1** , it does give sanction to sexual coercion in the aftermath of war .. **114**

**1:** In Islam a Muslim soldier was only permitted to touch a female slave who had been formally given to him by the Muslim leader, after the distribution of the booty. Since the booty could only be distributed after the battle, it was illegal for a Muslim soldier to have sexual relations with a captive woman during battle. If he did, he would be guilty of illegal sexual intercourse, and be stoned to death [ in case he was married ] or flogged. In addition we also proved earlier that a soldier was not permitted to rape the captive woman that had been given to him as a slave-girl after the distribution of the booty [ See: pp. 7-18 of this booklet ].

As one can see there is nothing in the law which prohibits the man from raping the woman before he decides to marry her. **115** The law simply sets forth a procedure [ see: Deut. 21:12-13 ] **116** for marrying the woman, should that be what the man chooses. It is “only” during this procedure that a man is not allowed to have sexual intercourse with the woman. In other words prior or after this procedure a man is permitted to rape his female prisoner. Professor Harold C. Washington confirms that the woman is also forced into sexual intercourse after the procedure is complete, see:

Given that the woman in this passage attains her position in marriage as the victim of capture by military attack, how should we regard the sexual relationship depicted here ? ... The fact that the man must wait for a month before penetrating the woman [ 21.13 ] does not make the sexual relationship something other than rape.. Only in the most masculinist of readings does the month-long waiting period give a satisfactory veneer of peaceful domesticity to a sequence of defeat, bereavement, and rape ..... **117**

**114:** H. C. Washington, ‘Lest He Die in the Battle and Another Man Take Her : Violence and the Construction of Gender in the Laws of Deuteronomy 20-22’ in: “Gender and Law in the Hebrew Bible and the Ancient Near East” , edited by Victor H. Matthews [ Continuum International Publishing Group, 2004 ] , p. 203

**115:** Earlier we mentioned the historical fact that many Arabian women in ancient wars used to beautify themselves for the soldiers who won the battle. Therefore it is not absurd to say that a large group of women did consent to have sex with the Jewish soldiers that took them captive. But what about those women who did want to have sex with these soldiers who won the battle ? In this paperwork we proved that Islam did not allow a soldier to rape a female prisoner, nor was a Muslim allowed to rape a captive woman that was given to him as a slave girl after the distribution of the booty. The biblical text on the other hand demonstrates that a Jewish warrior was permitted to “humble” [ anah ] his female prisoner [ Deut. 21:10-14 ] , i.e. he was permitted to rape those captive woman that did want to have sex with him.

**116:** Prof. Carolyn Pressler comments: “.It seems likely that the rituals and the morning period serve as ways to facilitate the assimilation of the woman, a foreigner, into an Israelite household...” [ C. Pressler: “The View of Women Found in the Deuteronomic Family Laws” ( Walter de Gruyter , 1993 ) , p. 12 ]

**117:** H. C. Washington, ‘Lest He Die in the Battle and Another Man Take Her : Violence and the Construction of Gender in the Laws of Deuteronomy 20-22’ in: “Gender and Law in the Hebrew Bible and the Ancient Near East” , ed. by Victor H. Matthews [ Continuum International Publishing Group, 2004 ] pp. 204-205

As one can see biblical warriors are allowed by their “holy” book to have sex with their female prisoners in a way that would “humble” / “humiliate” [ *anah* ] them [ see: Deut. 21:10-14 ]. **118** In other words the Bible made it legal for them to rape their captive women. In Islam on the other it was forbidden for a Muslim to rape a female prisoner that was given to him as a slave girl after the distribution of the booty, nor was a Muslim allowed to rape any other woman [ see pp. 7-18 ]. It is reported that ‘Ali Ibn Abu Talib [ the son-in-law of the Prophet ] as a Caliph always reminded his soldiers that they were not allowed in Islam to harm any woman of the enemy. Tabari reports:

According to Abu Mikhnaf – Abd al-Rahman b. Jundab al-Azdi - his father: On every occasion on which we confronted an enemy ‘Ali would command us in these words: “Do not fight them unless they attack you first. You, praise be to God, have a good case and holding back from fighting them until they attack will strengthen it. If you fight them and defeat them, do not kill the fugitives, do not finish off the wounded, do not uncover their “*nakedness*”, and not mutilate the slain. If you reach their abodes, do not tear aside a curtain, enter a dwelling without permission, or seize any of their property apart from what you find in the army camp. *Do not harm against any woman* even if they utter abuse against your honor **119**

It is truly amazing to see how many Christian Missionaries falsely accuse Islam of something that is not found in the Qur’an or in the authentic Sunnah of Prophet Muhammad, but in their own Bible !

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**118:** As we mentioned earlier, Rabbenu Tam stated that the Torah permits the biblical warrior an initial act of intercourse, when the captive is still a gentile, after which the warrior must leave her alone and follow the outlined procedures [ see : Deut. 21:12-13 ] before marrying her and having intercourse with her again [ see Tosafot, B. Qiddushin 22a, s.v. “*shelo yilhatzenah*”, and Sanhedrin 21a, s.v. “*de’i*” ]. Maimonides follows the same view [ see: Hilkhoh Melakhim 8:2-5 ]. Another Jewish source also states that a warrior is permitted to have sex with his gentile captive before he decides to marry and convert her by force [ see Marcus Jastrow, “A Dictionary of the Targumim, the Talmud Babli, and Yerushalmi, and the Midrashic Literature” ( Luzac, 1903 ) , p.585 ]. G. W. Bromiley moreover confirms that the use of the Hebrew word “*anah*” [ to “humble” ] in Deuteronomy 21:14 , demonstrates that the captive woman was raped by her captor. He states: “....The general meaning of the Heb. Piel of “*ana*” is “humble” or “force into submission”. In other passages where it denotes forcing sexual relations upon a woman the RSV renders it “humble” ( Gen. 34:2; Ezk 22:10 ) , “humiliate” ( Dt. 21:14 ) , “violate” ( 22:24, 29 ) ....”[ See G. W. Bromiley ‘International Standard Bible Encyclopedia:Q-Z’ ( Eerdmans Publishing 1995 ) p. 49 ]. In addition we read elsewhere that a soldier could force his rape victim into marriage with him. Eerdmans Dictionary of the Bible states: “...Desirable virgins captured on the battlefield could be forced to marry their captors.....” [ See: “Eerdmans Dictionary of the Bible” ( Wm. B. Eerdmans , 2000 ) , p.1359 ]

**119:** See: Imam Tabari: “The History of al-Tabari” , Vol. XVII [ State University of New York Press 1996 ] p. 30