

THE SLAVE TRADE TRAVESTY

DR. YASIR QADHI AND HIS UNUSUAL METHOD OF “LOOKING BACK”
TO CHANGE HOW “WE LOOK FORWARD”
A SERIALISED, IN-DEPTH CRITIQUE OF THE LECTURE
“CHANGE & MODERNITY—LOOKING BACK AS WE LOOK FORWARD”



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PART TWO

INTRODUCTION

In paper one, we critiqued the starting point of Yasir Qadhi’s lecture where he spoke at length on the banning of coffee by the *Ulamā* many centuries ago. As was made clear in our paper, Qadhi’s inquiry into the aforementioned *fatāwā* was hardly dispassionate, unbiased and objective. In Qadhi’s lecture, he presented controversial, hand-picked *fatāwā* to the masses as an embarrassment whereby he exposed the *Ulamā* as a whole to undue and inappropriate criticism. You would never expect this misguided modus operandi from a sincere caller to Islām, unless, of course, he has an agenda; an agenda furnished by trivialising and exaggerating events so as to illicit from the listener an emotional and biased response by which to impress upon his audience the ‘backward’ mentality that dominated many Muslim minds in Mecca. Clearly, such a strategy is a prerequisite for the acceptance of Qadhi’s agenda. Given that Qadhi deploys this strategy in a Western liberal society in 2013 wherefrom he transports his

¹ Compiled Abū Ameenah AbdurRahman Bennett and Isa Calliste

audience back to the 1600s — void of any historical, social or religious context — this is very telling indeed.

In spite of Qadhi’s oversimplified view of events surrounding the coffee controversy, we also found that coffee was viewed with hostility in non-Muslim lands, such as England, Germany and Italy as well as Mecca due to multiple factors, which raised further questions regarding Qadhi’s ‘embarrassment’ proposition.

In paper one, we critiqued and deconstructed the coffee *fatwā* and concluded that it could take one of three possible verdicts:

Verdict One: The verdict passed on coffee was an outright mistake in *ijtihād*, so obvious it is truly embarrassing.

Verdict Two: A mistake in *qiyās* which was *not* so obvious because coffee has similar traits to the prohibited thing it was compared to (i.e. *khamr* /intoxicant).

Verdict Three: No mistake was made in the *ijtihād* regarding coffee and thus nothing warrants the charge of embarrassing.

Looking at the coffee *fatwā* within a broader, more balanced and more impartial narrative of events, which transpired all those centuries ago, as opposed to the narrative presented by Qadhi, we concluded that the coffee *fatwā* agreed with Verdict Two. We reiterate here that **we were not making a case for caffeine being *harām*** but merely exposing Qadhi’s propaganda and narrow, over-simplified narrative of events which he carefully constructed to fulfill an end-game agenda.

In this particular paper, we will be looking at slavery in Islām and the Transatlantic slave trade and Qadhi’s attitude and understanding towards the *‘ulamā*. As in the first paper, our intention here is to present a counter-argument to Qadhi’s case and a counter-narrative to past events

presented by him. Ultimately, we will show, *insha’Allah*, that Qadhi’s ‘embarrassment’ project serves as a basis to what he is consistently calling for during his lecture: the insourcing of *fatāwā* by Muslims in the West to resident-based ‘scholars’ and the non-outsourcing of *fatāwā* to the true, major scholars whom reside in Muslim lands.

**“EMBARRASSING” CASE #2:
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According to Qadhi, his next case is *so* embarrassing that Qadhi himself was “embarrassed to mention it” to his audience, but just *somehow* he plucked up the courage to do so. In the first paper, we quoted the following statement from Qadhi:

...unfortunately, we have some *really embarrassing* examples. Wallāhi, one of the most *embarrassing* examples, it is *so embarrassing* that *I am embarrassed to mention* it much less give a talk about it I don’t think I’ll *ever* give a talk about it because, *Wallāhi*, it is *embarrassing*, but *I want you to know because I want to shock and awe factor [sic]*, and you will understand why I am telling you this...

Not only does this heavily loaded quote include Qadhi’s operative word in all of its derivatives, this quote also sets the propagandist mood for the delivery of the mother of all ‘embarrassing’ moments. For ten minutes or more, Qadhi keeps his audience in suspense and then he states,

One of the most embarrassing was that when the anti-slavery movement began to spread in Muslim lands—in the 1850s, 1890s, 1900s—*sadly*, some of our scholars stood in the way of the anti-slavery movement, and they said it is *harām* to ban slavery; you cannot *ban* what Allah has made *halāl*.

This statement is so unjust, misrepresentative and oversimplified, good suspicion requires us to wonder if Qadhi actually comprehended the implications of these words he uttered that evening. Even if Qadhi were not aware of the reverberations of his TNT terminology, his insulated ignorance may not be enough to save him from the threat found in the following authentic hadīth

... وَإِنَّ الْعَبْدَ لَيَتَكَلَّمُ بِالْكَلِمَةِ مِنْ سَخَطِ اللَّهِ لَا يُلْقِي لَهَا بِأَلَّا يَهْوِي بِهَا فِي جَهَنَّمَ.

The Prophet said, “...a slave may utter a word (carelessly) which displeases Allāh without thinking of its gravity and because of that he will be thrown into the Hell-Fire.”²

TRADING MORE THAN NAMES IN THE SLAVE TRADE

In the minds of the masses, the term *slavery* is so perniciously perceived that the majority can be excused for conflating between the Transatlantic slave trade and Slavery in Islām. It generally stands to reason that things which share a name often share a mutual reality; otherwise, why would they share a name? That said, some things, despite sharing a name, do not always share a parallel reality. Indeed, scholars have a maxim that reflex this observation: **“Namesakes do not necessitate equality between the things that share names”**. This maxim is often applied in issues pertaining to Allāh’s Names and Attributes,³ but its wisdom transcends its customary usage and thus we can call on its wisdom here.

² Sahīh Muslim Vol. 8, Book 76, Hadith 485.

³ In his explanation of al-Aqeedah al-Wāsiyyah, Shaykh Muhammad ibn al-Uthaymeen uses this maxim to make a distinction between the attribute of life found in creation and the perfect life that is an attribute of Allāh.

So, from a da'wah and educational perspective, Qadhi here was presented with an *excellent* opportunity to educate his audience and those thousands of Muslims and perhaps non-Muslims who will watch his lecture on YouTube and other media outlets. This was a prime opportunity for Qadhi to present Islām's unparalleled stance on slavery, thereby divorcing it from its notorious namesake. Qadhi, with his scalpel in hand and his critical patient on the operating table, had the opportunity to make the life-saving amputation to stop the cancerous tumour of the Transatlantic slave trade eating away at its namesake. The fact that Qadhi did not see or use this as a wonderful opportunity to establish disparity between two social phenomena that share a condemned name, and that all he could myopically see is another opportunity to demonstrate how the 'Ulama *once again* got it 'embarrassingly' wrong, should make obvious to all how hell-bent Qadhi is in achieving his overall agenda. Perhaps in Qadhi's attempts to exploit the scruples of others, he purposely left the term 'slavery' generic because non-abolishment of the type of slavery that took place across the notorious 'Middle Passage' would unquestionably warrant a cry of embarrassment and frankly a whole lot more.

AN OLD AGE, AN OLD DAWN

Before we can clinically dissect between the Transatlantic slave trade and slavery in Islām, which in itself is a robust argument against Qadhi's proposition, we are first required to have a rudimentary understanding of slavery as an age-old institution prior to the advent of Islām. Before the dawn of Islām, slavery was deeply embedded in many ancient societies. Indeed, according to [Encyclopedia Britannica](#), “The origins of slavery are lost to human memory.” Not only was slavery a part of the everyday landscape in the past, the routes that led to slavery were numerous, such as enslavement via wars, birth, kidnapping, sale of children by their parents, ostensible 'rescue' of unwanted children, committing serious crimes, debt or poverty and necessity (i.e. self-enslavement). However, whilst the avenues to slavery were many, the avenues that lead to emancipation were few

Interestingly, the first thing that Islām did in addressing the oppressive nature of slavery was to abolish all means of enslavement with the exception of one: captives of war. Indeed, with the dawn of Islām came the dawn of reformation in the age-old institution of slavery, long before the West came to its moral senses and outlawed slavery.

A NEW AGE, A NEW DAWN

Explaining the reasoning behind the only permissible means of enslavement in Islam, Shaykh Muhammad ash-Shanqeeti, in his work *Advaah al-Bayaan*,⁴ states:

The reason for slavery (in Islām) is due to disbelief or for waging war against Allah and His Messenger. So whenever Allah empowers the Muslim combatants of war, who offer their souls and wealth and all of their strength which Allah has given them in order to make the word of Allah supreme over the disbelievers, then thereby the captives of war become the property of the Muslims through slavery, unless the leader of the Muslims chooses through his virtue to free them or ransom them in the interests of the Muslims.

Therefore, the only legal justification that can be used for the enforcement of slavery in Islām is through war, where those captured in war are no longer free by the dictates of war. Every other means used to enslave is explicitly prohibited in Islām. For example, the Prophet states in a hadith qudsi,

ثَلَاثَةٌ أَنَا خَصْمُهُمْ يَوْمَ الْقِيَامَةِ ، وَمَنْ كُنْتُ خَصْمَهُ خَصِمْتُهُ ، ذَكَرَ مِنْهُمْ : رَجُلٌ بَاعَ حُرًّا فَأَكَلَ ثَمَنَهُ

⁴ *Advaah al-Bayaan* (3/387)

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There are three that will be My adversaries on the Day of Resurrection, and whoever opposes Me will be defeated... a man who has sold a free person [into slavery] and has consumed his price.”⁵

Not only did Islām virtually block all means that lead to slavery, it also ushered in many ways for a slave to obtain freedom. From these ways were:

- Setting up a statutory portion of the zakat funds for liberation of slaves
- Islām made it legally possible for a slave to buy his own freedom by paying an agreed amount through instalments
- Islām made as an expiation for manslaughter the freeing of slaves
- Islām made as an expiation for having sexual intercourse during Ramadhān the freeing of slaves
- Islām made as an expiation for the breaking of oaths the freeing of slaves

Allāh states regarding the second of these means of manumission:

وَالَّذِينَ يَبْتِغُونَ الْكِتَابَ بِمَا مَلَكَتْ أَيْمَانُكُمْ فَكَاتِبُوهُمْ إِنْ عَلِمْتُمْ فِيهِمْ خَيْرًا ۖ وَآتُوهُمْ مِّنْ مَّالِ اللَّهِ الَّذِي آتَاكُمْ ۗ ﴿٣٣﴾

And such of your slaves as seek a writing (of emancipation), give them such writing, if you know that they are good and trustworthy. And give them something yourselves out of the wealth of Allah which He has bestowed upon you.⁶

⁵ *Sahih Bukhaari* 2227

⁶ *An-Nūr* 24/33.

The most important thing to note about Islām’s legal attitude on slavery is that it was neither obligatory nor encouraged to take slaves. Even though prisoners of war could be taken into slavery, it was not the only option that presented itself to the Muslim commander. The Book of Allah extends to the Muslims alternatives to enslavement:

فَإِذَا لَقِيتُمْ الَّذِينَ كَفَرُوا فَضَرْبَ الرِّقَابِ حَتَّىٰ إِذَا أَثَخْتُمْهُمُ فَشُدُّوا الْوَتَاقَ فَإِمَّا مَنًّا بَعْدُ وَإِمَّا فِدَاءً حَتَّىٰ تَضَعَ الْحَرْبُ أَوْزَارَهَا ۗ ﴿٤﴾

So, when you meet (fight Jihad in Allah's Cause) those who disbelieve smite at their necks till when you have killed and wounded many of them, then bind a bond firmly (on them, i.e. take them as captives). Thereafter (is the time) either for generosity (i.e. free them without ransom), or ransom (according to what benefits Islam), until the war lays down its burden.⁷

So, the sharia provides the Muslim commander various options:

1. taking prisoners of war as slaves,
2. ransom them in exchange for Muslim captives or money,
3. release them as a gesture of goodwill or
4. execution.

Good treatment of slaves is also a legal requirement of Islām, so much so that the Prophet said,

⁷ *Muhammad* 47/4

هُمُ إِخْوَانُكُمْ، جَعَلَهُمُ اللَّهُ تَحْتَ أَيْدِيكُمْ ، فَمَنْ جَعَلَ اللَّهُ أَخَاهُ تَحْتَ يَدِهِ ، فَلْيُطْعِمْهُ مِمَّا يَأْكُلُ ، وَلْيُلْبِسْهُ مِمَّا
يَلْبَسُ ، وَلَا يُكَلِّفْهُ مِنَ الْعَمَلِ مَا يَغْلِبُهُ فَإِنْ كَلَّفَهُ مَا يَغْلِبُهُ فَلْيُعِنْهُ عَلَيْهِ.

They (i.e. slaves) are your brothers whom Allāh has placed under your authority. So if Allāh places a brother under his authority, let him feed him and clothe him from his own provisions, and let him not overburden him with chores. If he were to overburden him, then he should aid him (in his chores).”⁸

Not only has Islām come to protect the physical rights of a slave, it also came to protect his psychological rights. The Prophet said,

مَنْ قَدَفَ مَمْلُوكَهُ وَهُوَ بَرِيءٌ مِمَّا قَالَ جُلِدَ يَوْمَ الْقِيَامَةِ ، إِلَّا أَنْ يَكُونَ كَمَا قَالَ

If someone accuses his slave and the slave is free from the accusation, he will be flogged on the Day of Resurrection unless the slave is really as he has described him.⁹

We will allow the non-Muslim, Gustave le Bon to eloquently summarise the stark difference between slavery in the West and slavery in Islām and amongst Muslims:

What I sincerely believe is that slavery amongst the Muslims is better than slavery among other than them. Also, the status of a slave in the East is better than the status of a servant in the West, because slaves in the East are a part of the family. Loyal slaves who aspired for their freedom would be granted what they desired, but despite this they never had recourse to implement this right.¹⁰

We will end this section with a bullet-point summarisation of the major distinguishing factors between Islāmic slavery and Transatlantic slavery:

⁸ Sahih al-Bukhāri 1360

⁹ Sahih al-Bukhāri 6858

¹⁰ *Hadaarat al-'Arab* (Arab Civilization) (p. 459-460)

- An Islamic maxim, although **“not completely new”**¹¹ was **“a presumption of freedom in all legal affairs between human beings (*al-asl huwa'l hurreya-* 'the original position is one of freedom')”**.¹²
- Islamic law prohibited all routes to enslavement except through legitimate warfare; whereas anyone could be enslaved under the Transatlantic slave trade where **“captives [were not seen] as humans, but as commodities that could be disposed of without ceremony”**.¹³
- In Islāmic law, slavery was neither obligatory nor encouraged. Even with prisoners of war other alternatives to enslavement were available and there was “emphasis on emancipation rather than enslavement”¹⁴
- Islām “privilege[ed] the humanity of the slave over his or her status as property in many instances”¹⁵ as opposed to the Transatlantic slave trade, which saw slaves as non-human commodities which could be worked to death.¹⁶
- Islām demanded good treatment of slaves and established substantial protection for them whereas the Transatlantic slave obviated slaves’ good-treatment, manumission and integration into society.¹⁷

¹¹ Freamon, p. 42 from Freamon, B.K. (2012). Definitions and Conceptions of Slave Ownership in Islamic Law. In Allain, J., (Ed.), *The Legal Understanding of Slavery: From the Historical to the Contemporary* (pp.40-60). Oxford, England: Oxford University Press.

¹² Ibid.

¹³ Burnard, 2011, p.90 from Burnard, T. (2011). The Atlantic slave trade. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 80- 97). Oxfordshire, England: Routledge.

¹⁴ Freamon, p.42 from Freamon, B.K. Definitions and Conceptions of Slave Ownership in Islamic Law. In Allain, J. (Ed.), *The Legal Understanding of Slavery: From the Historical to the Contemporary* (pp.40-60). Oxford, England: Oxford University Press.

¹⁵ Ibid., p.60.

¹⁶ Hahn, 2011, p.300 from Hahn, S. (2011). Forging Freedom. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 298-313). Oxfordshire, England: Routledge.

¹⁷ Rugemer, 2011, p.318 from Rugemer, E.B. (2011). Emancipation Day traditions in the Anglo-Atlantic world. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 314-330). Oxfordshire, England: Routledge.

- In the Islāmic slave trade, taking young children from their mothers was prohibited whereas such a practice could be found in the Transatlantic slave trade.¹⁸
- Islāmic Law provided multiple routes to emancipation which was **“a meritorious and pious act, entitling the emancipator to favorable treatment in the next life”**.¹⁹ Slaves were also freed as an act of expiation. Islām had a support structure in place for ex-slaves²⁰ and conversion to Islām was another route to emancipation.²¹ However, there was **“a stark divide between legal abolition and effective emancipation”**²² in the Transatlantic slave trade where ex-slaves **“typically received no compensation and little support”** (ibid.).²³ Indeed, under the Transatlantic slave trade, emancipation was blocked even after the trade was abolished.²⁴

¹⁸ Burnard, 2011, p.87 from Burnard, T. (2011). The Atlantic slave trade. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 80- 97). Oxfordshire, England: Routledge.

¹⁹ Freamon, p.51 from Freamon, B.K. Definitions and Conceptions of Slave Ownership in Islamic Law. In Allain, J. (Ed.), *The Legal Understanding of Slavery: From the Historical to the Contemporary* (pp.40-60). Oxford, England: Oxford University Press.

²⁰ This is based on one of the eight categories of people who are entitled to *zakāt* that are mentioned in the surah of at-Tawbah [99:6]. Shaykh Muhammad ibn ‘Uthaymeen states, “The fifth category of those who are from the people of *zakāt* are the slaves, based on Allāh’s statement ‘...and to free the captives...’ The scholars explained this to include three things (1) that a slave through a contract of *mukātabah* (manumission) can buy himself from his master by stipulating a fixed paid amount to be paid at a future date. He can be given what he needs to pay his master. (2) A slave who can be bought to secure his freedom. (3) A Muslim captive who has been caught by the non-Muslims. The non-Muslims can be given *zakāt* as ransom for the freedom of this [Muslim] captive. (*Majmu’ al-Fatāwā* vol. 18, p. 339).

²¹ Ghazal, 2009, p. 144 from Ghazal, A.N. (2009). Debating Slavery and Abolition in the Arab Middle East. In Mirzai, B.A., Montana, I.M. & Lovejoy, P.E. (Eds.), *Slavery, Islam and Diaspora* (pp.139-154). Trenton,NJ and Asmara, Eritrea: Africa World Press.

²² Quirk, 2008:530. Quirk, J. (2008). Ending Slavery in all its Forms: Legal Abolition and Effective Emancipation in Historical Perspective. *The International Journal of Human Rights*, 12 (4), 529-554.

²³ Ibid.

²⁴ Rugemer, 2011, p.318 from Rugemer, E.B. (2011). Emancipation Day traditions in the Anglo-Atlantic world. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 314-330). Oxfordshire, England: Routledge.

- Under Islām, jurists argued that it was obligatory to grant slaves of good character contracts of emancipation (i.e. *al-Mukaatabah*). Under this arrangement, a slave could buy themselves out of slavery in exchange for a sum of money paid in instalments.
- Islāmīc Law allowed the slave to passing legal *fatāwa*²⁵, lead the prayer and “act as...a lesser wazir (minister)...act[ing] at the direction of the [head of state]...mediating between the Imam and his subjects, announcing governmental appointments and military preparation of armies, carrying out commands”.²⁶ These levels of slave responsibility were absent in the Transatlantic slave trade.
- Slavery in Islām was not predicated upon race (racism being prohibited); consequently, slaves and their masters within Muslim societies were of diverse races and backgrounds which facilitated the assimilation of ex-slaves into Muslim societies. Indeed, “**34 of the 37 caliphs of the Abbasid Empire, which lasted for over 500 years**”²⁷ had slave mothers. Comparatively, the Transatlantic slave trade saw an American defence of slavery based on “**a pseudo-scientific ideology of race**”²⁸ and “**American pro-slavery ideology...had no counterpart in any other slave society**”²⁹ where emancipation was blocked.³⁰

²⁵ Ibid., p.59.

²⁶ Ibid.

²⁷ Freamon, p.56 from Freamon, B.K. Definitions and Conceptions of Slave Ownership in Islamic Law. In Allain, J. (Ed.), *The Legal Understanding of Slavery: From the Historical to the Contemporary* (pp.40-60). Oxford, England: Oxford University Press.

²⁸ Garrigus, 2011, p.239 from Garrigus, J. (2011). Free Coloureds. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 234-247). Oxfordshire, England: Routledge.

²⁹ Burnard, 2011, p.190 from Burnard, T. (2011). The Planter Class. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 187-203). Oxfordshire, England: Routledge.

³⁰ Rugemer, 2011, p.318 from Rugemer, E.B. (2011). Emancipation Day traditions in the Anglo-Atlantic world. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 314-330). Oxfordshire, England: Routledge.

SAME NAMES BUT RADICALLY DIFFERENT SIGNATURES

Now that we have done Qadhi’s job of surgically removing the cancerous tumour that had been eating away at its namesake (i.e. slavery in Islām), we can move forward with a more dispassionate disposition, which will enable us to view Qadhi’s charge of embarrassment more clearly, unhindered by loaded, emotive terminology.

Just by this rudimentary introduction and basic comparison between the two types of slavery, a massive dissimilarity becomes clear between the two. This drives home the importance of separating things when separation is required to maintain an objective view of events. When the mind fails to make any distinction whatsoever between two things that share a very controversial name and basic theme, the term ‘embarrassment’ becomes ripe for generic application. Being impaired with the false belief that slavery in Islām and the Transatlantic slave trade only differ trivially is a sure way to being convinced of Qadhi’s embarrassment charge. Actually, the embarrassment charge would be more damning than Qadhi realises: not only would ‘some of our scholars’ be exposed, but Islām itself would be open to scrutiny, since it explicitly forbids the brutal Transatlantic slave trade. This begs the question: if both forms of slavery differ drastically to the extent that one cannot be morally or legally justified but the other has legal and moral justification, why is it an embarrassment that **‘some of our scholars’** stood in the way of the Muslim abolitionist movement? This question even begs a next question: who exactly are these nameless scholars that stood in the way of the Muslim abolitionist movement by arguing “**you cannot *ban* what Allah has made *halāl*”**? The first question will be entertained throughout this paper but the second at this juncture requires some background and investigation.

OPPOSING PERSPECTIVES ON THE ABOLITION OF SLAVERY

In the Book *Slavery, Islam and Diaspora*,³¹ Amal N.Ghazal states:

At the turn of the twentieth century, *ulama* were faced with a number of socioeconomic transformations that required a legal perspective to legitimize or delegitimize them. One of those transformations was the movement to abolish the institution and practice of slavery.

So, the movement to abolish slavery arose from socioeconomic and political transformations which themselves were products of technological advancements that bridged the geographical, political and social gap between neighbouring civilisations. Global regulation and co-operation became institutionalised by setting up intergovernmental organisations, like the League of Nations and its successor, the United Nations. Thus, because borderlines and human rights were being rapidly redefined and social and economic developments were being scrutinised by these overseeing organisations, the enclosure that fortified the Muslim way of life was slowly becoming more transparent and thus *ijtihad* would be called upon for motives not just purely in the interests of Muslims:

Reformers acknowledged the fact that exposure to western civilization had become an inevitable reality for Muslims. *Ijtihad* would enable them to assimilate new ideas, concepts, and manners streaming from Europe. Also, it would allow the ulama to regulate that encounter. Ultimately, *ijtihad* would be

³¹ Ghazal, 2009, p. 139 from Ghazal, A.N. (2009). *Debating Slavery and Abolition in the Arab Middle East*. In Mirzai, B.A., Montana, I.M. & Lovejoy, P.E. (Eds.), *Slavery, Islam and Diaspora* (pp.139-154). Trenton,NJ and Asmara, Eritrea: Africa World Press.

the tool that would filter and channel into Muslim societies what was considered permissible and beneficial from European civilization and ideas.³²

So, in the wake of the global socioeconomic flood gates being opened, this led to the rise of two opposing parties in many socio-political issues, and in particular slavery:

It argues that the debate over the legitimacy of abolition between two opposed circles of Arab ulama, one conservative and anti-Salafi³³ and the other Salafi reformist, was rooted in a discourse shaped by two legal traditions with serious political and social ramifications: one based on *taqlīd* (imitation) and the other on *ijtihād* (independent interpretation of legal sources).³⁴

The authors of this book also argue that it was the Salafis that were in favour of abolition of slavery and that those who stood in their way were ultra conservative and anti-Salafi:

Despite the vigor this [Salafi] movement enjoyed, it was fiercely opposed by a conservative anti-Salafi movement that considered Islamic reformism a religious heresy and condemned reformers as the "Protestants" of Islam whose aim anti-Salafis stated, was to please Europeans, annihilate Islam, and abolish the *shari'a*.

Even from this basic distinction, we glean a lot more than we do from Qadhi's vague statement **“some of our scholars stood in the way of the anti-slavery movement.”** What does Qadhi

³² Ghazal, 2009, p. 140 from Ghazal, A.N. (2009). Debating Slavery and Abolition in the Arab Middle East. In Mirzai, B.A., Montana, I.M. & Lovejoy, P.E. (Eds.), *Slavery, Islam and Diaspora* (pp.139-154). Trenton,NJ and Asmara, Eritrea: Africa World Press.

³³ Firstly, as Muslims, we are obliged to keep in mind that the authors of the above quote are non-Muslims and therefore the terms ‘anti-Salafi and ‘Salafi’ require an in-house inspection. We will endeavour to do this whenever necessary.

³⁴ Ibid. page 139.

set to gain from arguing in the shade of ambiguities? By arguing in this mysterious manner, Qadhi gets to shroud some of the revealing identities that personalise his statement **“some of our scholars,”** which on investigation could bring into question the pronoun **“our”** found in Qadhi’s above statement. What if **“some of our scholars”** who **“stood in the way of the anti-slavery movement”** were not **“our scholars”** to begin with? And what if some of these “scholars” who campaigned for the abolition of slavery were not **“our scholars”** because they advocated beliefs that opposed core Islāmic beliefs? What if this is a case of apples and oranges where two groups of people are compared and then condemned because they share or, worse still, are purposely given the title of scholars?

In order for Qadhi to maintain his charge of embarrassment, it would require that Qadhi is either oblivious or indifferent to the staunch positions of many of the figureheads who represented the anti-abolition movement. For instance, Yusuf an-Nabhani,³⁵ who campaigned heavily against the Salafi movement³⁶ and even inspired much of the Sufi development in the 19th and 20th century, was a staunch anti-abolition campaigner. However, despite his creed and his position on slavery, an-Nabhani still had the decency to defend Islām and its position on slavery, which was being attacked by Western abolitionists who were arguing that “Christianity embraced emancipation because it was more humane than Islam”.³⁷ If this accusation played a central role in motivating the pro-abolitionists, one could robustly argue that the real embarrassing factor is that abolishment of slavery in certain Muslim countries was motivated to some extent to appease the West, which ultimately lent a good measure of credence to their claim that Christianity was more humane than Islām.

³⁵ Nabhani’s grandson would be the one to found the notoriously misguided group Hizb ut-Tahrir.

³⁶ These anti-Salafi sentiments no longer prove problematic for Qadhi because as Qadhi has declared himself he has grown out of Salafiyyah.

³⁷ Ghazal, 2009, p. 142 from Ghazal, A.N. (2009). *Debating Slavery and Abolition in the Arab Middle East*. In Mirzai, B.A., Montana, I.M. & Lovejoy, P.E. (Eds.), *Slavery, Islam and Diaspora* (pp.139-154). Trenton,NJ and Asmara, Eritrea: Africa World Press.

What if the motives that drove some of these so-called scholars to stand against the abolitionist movement were driven by a belief more religiously and politically nuanced than Qadhi’s simple anecdotal view of events: “**and they said it is harām to ban slavery; you cannot *ban what Allah has made halāl***”? Justice requires that we see events from the point of view of the anti-abolitionists as they were unravelling right before their eyes before we nonchalantly write off their stance against abolition as being extremely embarrassing. Once again, Qadhi might be suffering from an attitude about the past that is a product of present-day thinking. Just because something eventually proves itself to be wrong it does not require that it be looked at as embarrassing, especially when you take all relevant factors into account. In the book *Slavery, Islam and Diaspora*,³⁸ Amal N.Ghazal provides us a viewpoint through the eyes of another anti-abolitionist by the name of Muhammad Rāghib:

Moreover, he [Rāghib] did not believe that Europeans abolished slavery for the sake of humanity as they claimed. Their real intentions, he argued, were to divide the Muslim world, to weaken and destroy the power of its rulers, and to stop the spread of Islam. Nothing, he explained, testified to the reality of those intentions more than the "present war," alluding to the Italian invasion of Tripolitania in 1911. To achieve those goals, Europeans had to abolish slavery, especially after they had realized that "the one hundred thousand slaves who arrived in Muslim lands every year ended up converting to Islam, became free, and then married, thus increasing the number of Muslims." Some of them went back to their original countries and attempted to convert their own people. According to

³⁸ Ghazal, 2009, p. 144 from Ghazal, A.N. (2009). Debating Slavery and Abolition in the Arab Middle East. In Mirzai, B.A., Montana, I.M. & Lovejoy, P.E. (Eds.), *Slavery, Islam and Diaspora* (pp.139-154). Trenton,NJ and Asmara, Eritrea: Africa World Press.

Rāghib, this enraged Europeans who used abolition as a way to slow down the spread of Islam.

Even if Rāghib’s narrative of events can be legitimately challenged, it does not change the fact that what drove him to stand in defiance against the pro-abolitionists was a lot more than what Qadhi would have us believe.

Another interesting point that deserves an attentive ear is that the reasons which motivated abolition in the Western societies are not reasons that are necessarily found in Muslim societies. And this could serve as the underlying reason why slavery around the world was abolished at varying times due to variables that were related to each society. Slightly deviating from the point at hand, it seems that Islām suffers from what we can call ‘guilt by association’ syndrome. A classic example of this can be found in the arguments of atheists who argue against theism. Some atheists who have only been predisposed to the Christian concept of God take theism, which is a broad term that accommodates for any belief in God, and, possibly unbeknownst to them, reduce its understanding to the Christian concept of God, and thus a *type* of belief in God becomes the genus. This leads many atheists to believe that arguments designed against the Christian God are now one-size-fit-all arguments for all beliefs in God, including Islām. The lesson here is that it is not similar names or even loosely similar concepts that determine the legitimacy or illegitimacy of a thing; it is the concepts that independently identify each thing that determine its morality or legitimacy. Back to the point at hand:

For our purposes here, suffice it to mention briefly that the crux of the Ottoman argument was that slavery in the empire, as in other Muslim societies, was fundamentally different from slavery in the Americas. In the main, it was far milder because slaves were not employed on plantations, were well-treated, frequently manumitted, and could integrate into the slave-owning society. Islamic law, it was further maintained, encouraged owners to treat their slaves

well, and manumission was considered a pious act, for which the believer could expect spiritual remuneration. On the whole, scholars working on Islamic and non-Islamic slavery have tended to accept this view, arguing that Islamic societies were "societies with slaves" rather than "slave societies." Hence, they have maintained that Islamic slavery was milder, better integrated, more open to inclusion, and consequently, abolition came to them late, and was never a major political issue.³⁹

"SLAVE SOCIETIES" VS. "SOCIETIES WITH SLAVES"

As the argument in the above quote makes clear, the distinction between 'slave societies' and 'societies with slaves' is one which is key to the dissimilarity between the Transatlantic slave trade and Islāmic slavery. In 'slave societies'

slavery could not be separated from ordinary life [and]...was an integral part of social, economic, cultural and political structures. In particular, slaves were essential to how the economy operated, being both expensive items of property themselves, and also integral to how wealth was produced through the hard work they did in extracting wealth and passing it on to their owners.⁴⁰

Contrastingly, in 'societies with slaves'

³⁹ Toledano, 2009, p. 140 from Toledano, R.T. (2009). Bringing the Slaves Back In. In Mirzai, B.A., Montana, I.M. & Lovejoy, P.E. (Eds.), *Slavery, Islam and Diaspora* (pp.7-20). Trenton,NJ and Asmara, Eritrea: Africa World Press.

⁴⁰ Heuman, G & Burnard, T. p.7 from Heuman, G & Burnard, T. (2011). Introduction. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 1-15). Oxfordshire, England: Routledge.

the master-slave relationship was not the determinative social, political, and cultural influence. Moreover, economic activities tended to be diversified rather than concentrated around slave-produced tropical goods.⁴¹

It has been argued that only the ancient societies of Greece, Rome and the Transatlantic slave trade fit the criteria of what can be defined as slave societies⁴² and Muslim societies do not fit this criteria. The fact that the international abolition movement was originally born out of opposition to the slave societies within the Transatlantic slave trade is highly significant. Notably, many things inherent in the Transatlantic slave trade were alien to Islāmic slavery and all other systems of slavery in the history of mankind.⁴³ The Transatlantic slave trade was a unique system of slave-societies and a brutal “vast machine”⁴⁴ which enslaved over 12 million people.⁴⁵

The depraved barbarity inherent to the Transatlantic slave trade is well documented as is highlighted in the notorious ‘Middle Passage’ where slaves were transported on slave ships from Africa to the Americas. During the Middle Passage, we find examples of the enslaved being flogged as **“part of a campaign of terror in which there was a significant measure of sado-masochistic delight”**⁴⁶ and slaves being chained so tightly that they had to wallow in their own blood and excrement.⁴⁷ Unsurprisingly, the Middle Passage has been described as

⁴¹ Childs, 2014, pp.172-3 from Childs, M.D. (2011). Slave culture. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 170-186). Oxfordshire, England: Routledge.

⁴² Heuman, G & Burnard, T. p.7 from Heuman, G & Burnard, T. (2011). Introduction. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 1-15). Oxfordshire, England: Routledge.

⁴³ Burnard, 2011, p.190 from Burnard, T. (2011). The Planter Class. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 187-203). Oxfordshire, England: Routledge.

⁴⁴ Burnard, 2011, p.86 from Burnard, T. (2011). The Atlantic Slave Trade. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 80- 97). Oxfordshire, England: Routledge.

⁴⁵ Ibid., p.91.

⁴⁶ Burnard, 2011, p.87 from Burnard, T. (2011). The Atlantic Slave Trade. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 80- 97). Oxfordshire, England: Routledge.

⁴⁷ Ibid., p.90.

one of the worst experiences in human history, where hundreds of traumatised men, women and children were sent in tightly packed, foul-smelling ships on a four-to-six-week journey across the Atlantic.

These voyages saw rape (including of children) murder, sick slaves being thrown overboard, and torture; violence, barbarity and depravity seemed inherent to the Transatlantic slave trade’s Middle Passage and the system as a whole. Indeed, the *entire* system depended on violence for it to work. When Qadhi speaks of the **“shock and awe factor”** of the **“embarrassing”** example of Muslim opposition to abolition he forgets to mention the **“shock and awe factor”** of the horror of the Transatlantic slave trade. How can one equate Islāmic slavery to the Transatlantic slave trade? Unfortunately, from a da’wah and educational perspective, Qadhi chose not to present Islām’s unparalleled stance on slavery and separate it from its notorious namesake.

The Transatlantic slave trade can be further separated from Islāmic slavery when we consider what happened following the Middle Passage when slaves began work on plantations. Once again, rape, murder, torture, violence, barbarity and depravity were the order of the day. Plantation slaves were seen as no more than biological machines⁴⁸ and they appeared as skeletons due to being overworked.⁴⁹ Indeed, **“slave owners...work[ed] their slaves to death and replace[d] them with newly purchased ones”**.⁵⁰ One could ask Qadhi if such

⁴⁸ Morgan, 2014, p.149 from Morgan, L.M. (2011). Gender and Family Life. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 138-152). Oxfordshire, England: Routledge.

⁴⁹ Follett, 2011, p.123 from Follett, R. (2011). The Demography of Slavery. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 119-137). Oxfordshire, England: Routledge.

⁵⁰ Hahn, 2011, p.300 from Hahn, S. (2011). Forging Freedom. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 298-313). Oxfordshire, England: Routledge.

unique scenarios were to be found in the Muslim world such that universal abolition was a necessity.

Another unique feature of slave societies in the Transatlantic slave trade was the enslaved making up the **“the demographic majority of a colony or nation's population”**⁵¹ as in the Americas. Unsurprisingly, slavers argued that terrorising and brutalising slaves was necessary lest they rise up against their masters,⁵² which, both ironically and unsurprisingly, is exactly what they did. When failed rebellions led to extreme forms of torture,⁵³ the Transatlantic slave trade became associated with rebellions and repressive violence. In Britain, this violence led to a questioning of the Transatlantic slave trade **“and, ultimately, its longevity”**.⁵⁴ Indeed, slave rebellions **“played a significant role in the British government's decision to abolish slavery”**⁵⁵. Again, we could ask Qadhi if such unique scenarios were to be found in the Muslim world such that universal abolition was a necessity.

Significantly, a political state of flux arising from wars and revolution was key to the abolition of the Transatlantic slave trade. In **“Spanish Latin America, the wars of independence sapped and often decisively weakened slavery”**.⁵⁶ Within Britain, antislavery arguments were used to discredit the American Revolution and a popular abolitionist movement was born which claimed the moral high ground over America.⁵⁷ However, history shows that the

⁵¹ Childs, 2014, p.172 from Childs, M.D. (2011). Slave Culture. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 170-186). Oxfordshire, England: Routledge.

⁵² Burnard, 2011, p.197 from Burnard, T. (2011). The planter class. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 187-203). Oxfordshire, England: Routledge

⁵³ Ibid., p.198.

⁵⁴ Heuman, 2014, p.231 from Heuman, G. (2011). Slave Rebellions. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 220-233). Oxfordshire, England: Routledge.

⁵⁵ Ibid., p.221.

⁵⁶ Dubois, 2011, p.269 from Dubois, L. (2011). Slavery in the Age of Revolution. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 267-280). Oxfordshire, England: Routledge.

⁵⁷ Ibid., p.272.

reasons that drove the British to push for abolition were not entirely humane as the **“triumph of humanitarianism”**⁵⁸ narrative would have us believe. Earlier, we mentioned how the anti-abolitionist Muhammad Rāghib **“did not believe that Europeans abolished slavery for the sake of humanity as they claimed”**. Such a sentiment was not unique to the Muslim anti-abolitionists, as Christopher Leslie Brown argues: French, Spanish, Portuguese and Brazilian defenders of slavery saw **“British slave trade abolition and British abolitionism [as] a combination of fanaticism, hypocrisy, and self-interest”**⁵⁹ and **“more like an attempt to suppress the commerce of Britain's competitors”**.⁶⁰ The fact that even the non-Muslims had strong suspicions regarding the supposed noble intentions of abolitionists, exposes Qadhi's stance towards Muslim anti-abolitionists for what it is: a gross oversimplification of a highly complex issue. More importantly, it becomes clear that Muslims' opposition to abolition cannot be reduced to a simple **“you cannot ban what Allah made Halal”** argument.

Incredibly, at the end of the nineteenth century, key players in the Transatlantic slave trade not only adopted Britain's abolitionist stance (often from *strategic* as opposed to *moral* necessity) but came to see this stance as distinguishing **“Christian Europe from the Muslim and pagan states of the Middle East, Africa, and Asia”**⁶¹ and as a **“marker of moral superiority ma[king] it easier to conceive of European expansion as a war against barbarism”**.⁶² The original purveyors of the genocidal Transatlantic slave trade audaciously saw themselves as superior to the Muslims (many of whom they had previously enslaved) due to abolition, regardless of the fact that the Muslims had no system equivalent to the deplorable Transatlantic slave trade. Interestingly, as we saw earlier, the anti-abolitionist Muhammad

⁵⁸ Brown, 2011, p.288 from Brown, C.L. (2011). Abolition of the Atlantic Slave Trade. In Heuman, G & Burnard, T. (Eds.), *The Routledge History of Slavery* (pp. 281-297). Oxfordshire, England: Routledge.

⁵⁹ Ibid.

⁶⁰ Ibid., p.287.

⁶¹ Ibid., p.293.

⁶² Ibid.

Rāghib, made mention of how the Europeans ideologically used abolition as a strategy of division against their enemies and made particular mention of how **“enraged Europeans...used abolition as a way to slow down the spread of Islam”**. Unsurprisingly, this narrative is lacking in Qadhi’s **“shock and awe factor”** of the **“embarrassing”** example of Muslim opposition to abolition. Unfortunately, Qadhi’s view towards Muslim anti-abolitionists only helps to perpetuate the nineteenth century ideologically strategic view of the West’s moral superiority to Islām and Muslims. In the final analysis, trying to simplify the drive for abolition as a simple humanitarian narrative and strategy which could be transplanted to Muslim societies is flawed; as Christopher Leslie Brown states:

the relatively sudden and relatively quick success of the campaign to abolish the slave trade raises fundamental questions regarding morals, politics, and economics as engines of historical change.⁶³

Ironically, a large appeal of Qadhi’s call, when it comes to his non-outsourcing proposition, is that he quickly sees a disparity between Muslim and non-Muslim societies. In other words, Qadhi is very quick to separate things when he feels things are required to be separated. Strangely, though, Qadhi lacks consistency when looking at slavery as it functions in differing cultures that allow us to understand why some Muslims stood in the way of the abolition of slavery. Is it not a clear double-standard that Qadhi accuses our ulamā of viewing nuanced things in a simplified manner when he himself does exactly the same thing?

رمتني بدائها وانسلت

She accused me of her ailment and then slipped away.

⁶³ Ibid., p.281.

WHAT IS MORE EMBARRASSING...

What further exposes Qadhi’s agenda here and also unearths the real reason why he argues in the shade of ambiguities is that how can a stance on slavery, no matter which side you take, supersede real cases of embarrassment which that are unearthed when one investigates some of these personalities on *either* side of the slavery spectrum? For example, let us take Muhammad Abduh, a personality on the other side of the spectrum who was arguing in favour of abolition. Muhammad Abduh, who ironically is misidentified as a Salafī or as the founder of Salafiyyah,⁶⁴ was plagued with numerous deviant beliefs, such as his denial of the narrations pertaining to the Dajjāl, the sun rising from the west and the splitting of the moon.

So what is more embarrassing and what really should take priority when educating and guiding the *ummah*: arguing against or even for the abolition of slavery in Islām or having beliefs that contravene the very essence of Islām which are a product of pandering to European anti-Islāmic sentiments? How about the fact that Muhammad Abduh was a freemason and an associate of the non-Muslim Bahá’í sect?⁶⁵ Should not all the above deviations stand tall as *the* true reasons that ultimately decide to whom we insource or ‘outsource’ our *fatāwa*?

Here, we make a full circle and find ourselves back at Qadhi’s statement: “**you cannot *ban* what Allah has made halaal.**” Was the argument of the anti-abolition movement really that simple and primitive? Or has Qadhi extenuated their position to suit his end-game agenda?

⁶⁴ It states in the Hans Wehr Dictionary of Modern Arabic p. 493 “as-salafiyyah an Islamic reform movement in Egypt founded by Mohammed Abduh (1849-19-05).

⁶⁵ <http://www.ahlalhdeth.com/vbe/showthread.php?t=3571>

Here is an idea: what if the overseas contemporary scholars, in particular the Salafi scholars, have no issue with slavery being abolished because (1) Islām places great emphasis on freeing slaves (2) Islām neither makes it an obligation nor recommendation to enslave and thus its ruling is *mubāh* (permissible) (3) exercising the option of placing captives of war into slavery is purely the right of the Muslim ruler and thus it is his choice if he wishes to outlaw it or practice it because it is a case of *mubāb*. It is important that we do not conflate between the rejection (*inkār*) of slavery as a legal concept in Islām and a ruler’s right to implement or not implement slavery. One is a clear case of kufr and the other is the discretionary, executive right of the ruler. If this is the case, why does Qadhi need to target, through his non-outsourcing proposition, the overseas Salafī scholars who actually agree with him in his understanding of slavery? And if he is aware of this, why does Qadhi not make this clear so as to prevent further alienation between the Muslims and their true scholars? This just proves another casualty of Qadhi’s generic use of the term ‘Ulamā’.

Another factor that has a say in whether slavery should be made inactive or abolished is Jihād. This is because slavery, as a viable option, is activated only by way of Jihād, so if anything, the real ‘embarrassment’ and humiliation is that we have abandoned Jihād and not that we failed to jump when the non-Muslims said so. Thus, perhaps Qadhi’s apologetic attitude towards slavery is a tell-tale sign of what happens to us when we abandon Jihād. Did not our Prophet foretell us that

إِذَا تَبَايَعْتُمْ بِالْعِينَةِ وَأَخَذْتُمْ أَذْنَابَ الْبَقَرِ وَرَضِيْتُمْ بِالزَّرْعِ وَتَرَكْتُمْ الْجِهَادَ سَلَّطَ اللَّهُ عَلَيْكُمْ ذُلًّا لَا يَنْزِعُهُ
حَتَّى تَرْجِعُوا إِلَى دِينِكُمْ

*“When you enter into the *ināh* transaction, hold the tails of oxen, are pleased with agriculture, and give up Jihād, Allāh will make disgrace prevail over you, and will not withdraw it until you return to your religion.”⁶⁶*

⁶⁶ **Saheeh:** Collected by Abu Dawūd in his Sunan (#3462) on the authority of Ibn 'Umar, may Allaah be pleased with him. Al-Albānee graded it *sahih* in *Silsilah al-Ahadeeth as-Sahihah* (#11).

What if Jihād were still an integral part of the Muslim way of life and Muslims, with their persons, were still spreading the light of Islām to all corners of the globe, would we still feel the desperate need to abandon slavery and label our failure to do so as embarrassing? Or is this desperate need just a symptom of pandering to Western sentiments and ideals?—————If Qadhi were merely arguing that there is no need to practice slavery because the sole source of enslavement, which is jihad, is itself a rare practice and slavery thereby becomes virtually redundant as a result, then we do not have an issue with this because one is simply a product of the other. However, this simply not the case: there is a telling distinction between *abolishing* slavery and *allowing* slavery to die a natural death. Indeed, if Islām neither makes slavery an obligation nor recommends it and if placing captives of war into slavery is purely the right of the Muslim ruler which he can choose *not* to implement and if the Muslim ruler can outlaw slavery (due to it being permissible and not obligatory or recommended) then this shows that slavery can cease to be, due to a natural decline as opposed to being *abolished* as Qadhi himself seems to recognise:

in my humble opinion, as a footnote, this is the beauty of our religion when it comes to this issue; that Allah *Azza wa Jal had* the mechanism, it's already *there*, that it's not something that is encouraged it is *discouraged* and all the mechanisms were there to get rid of it...

However, whilst one would think that Qadhi is arguing for the case of natural decline, what Qadhi is promoting is closer to the case of abolition, as Qadhi's own words (following on from the quote above) show:

when finally the world got rid of it *Alhamdulillah* we too --- I don't know of a single scholar today who is clamouring for the return of slavery and why should they?

He also said:

One of the most embarrassing [examples] was that when the anti-slavery movement began to spread in Muslim lands—in the 1850s, 1890s, 1900s—*sadly*, some of our scholars stood in the way of the anti-slavery movement, and they said it is *harām* to ban slavery; you cannot *ban* what Allah has made *halāl*.

This shows 2 things:

- 1) Qadhi is celebrating the cessation of slavery in the East and West via its being banned
- 2) Qadhi is unjustly conflating between two dissimilar realities which leads him to pander to Western sentiments and ideals and attack the Ulamā whilst doing so.

Furthermore, did Qadhi even stop to think about the wonderful opportunities for reward, expiation and salvation from the fire that we lose in the absence of slavery? When Qadhi states **“Islām does not need slavery; you can ban it and Islām is completely perfect. It is not going to harm any of the rules of the Shari’ah”** did he not realise that in the absence of slavery Muslims will be deprived of a number of Islāmic related benefits. From these benefits are

1. **Being saved from the fire by freeing a slave:** The Prophet said, *“Whoever frees a Muslim slave, Allah will save all the parts of his body from the Fire as he has freed the body-parts of the slave.”*⁶⁷

⁶⁷ Sahih al-Bukhari 2517 Book 49, Hadith 1.

2. **The recommendation of freeing slaves⁶⁸ during an eclipse:** Asma said, “The Prophet used to command us to free slaves on the occasion of an eclipse.”⁶⁹
3. **A means that helps to stave off the unlawful:** Allāh states in His Noble Book, “**And whoever among you cannot [find] the means to marry free, believing women, then [he may marry] from those whom your right hands possess of believing slave girls.**”⁷⁰
4. **A chance of a double reward for a slave:** The Prophet said, “If a slave serves his master sincerely and worships his Lord (Allah) perfectly, he will get a double reward.”⁷¹

After we learn of the great rewards we can achieve through emancipation, we can ask a very important question: “Are the listed benefits which can be achieved by freeing a slave from Islām or not?” Of course, Qadhi would agree that they are. Since this is the case then that would mean that emancipation and the rewards it yields are from Islām’s perfection, and thus if slavery is banned then these unique routes which lead to reward, expiation and salvation from the fire would be lost either temporarily or forever. In light of this, when Qadhi says “**Islām does not need slavery; you can ban it and Islām is completely perfect. It is not going to harm any of the rules of the Shari’ah**” then his argument is not entirely true because if a Muslim is deprived of a route that leads to great rewards then no Muslim could deny that these rewards are a part of Islām’s absolute perfection. And what we mean by ‘absolute perfection’ is that these avenues that are paved through slavery, which lead to reward and expiation, are an integral part of Islām. Qadhi tells his audience that Islām remains “completely perfect” if slavery is banned but the Qur’ān and the Sunnah tell us something quite different:

⁶⁸ We also know that the salaf used to vie with each other in freeing of slaves during the last ten nights of Ramadhān and on the day of ‘Arafat, hoping that Allāh would set free their necks from the Fire.

⁶⁹ Sunan Abu Dawūd Book 3, Hadith 1188. Al-Albānee graded it *sahīh*.

⁷⁰ An-Nisā (4:25)

⁷¹ Sahih al-Bukhari Vol. 3, Book 46, Hadith 726

وكم من عائب قولاً صحيحاً وأفته من الفهم السقيم

How many have criticised something sound when the fault actually lies in their poor understanding!⁷²

THE INSOURCING AND ‘OUTSOURCING’ PROPOSITION

Qadhi states,

“One of the biggest problems of all of our, these movements and that caused Islam to *not* spread as well as it should was that we outsourced our fatwās to back home.”

Qadhi’s terminology of ‘outsourcing’ is a curious rhetorical device, especially when applied to the extremely important subject of giving and taking fatāwā. The terminology is tactfully loaded because the term ‘insourcing’ is for the most part a positive, productive term and therefore just by the mere usage of the term it gives the instant impression that Qadhi is propositioning for something which is internally productive and advantageous. If we think about it within the context of a trade company, why outsource when you can insource, particularly when the ‘specialists’ you can *insource* to are as competent as the specialists you are currently *outsourcing* to?

⁷² Shaykh Muhammad ash-Shanqeeti (*Advaā al-Bayaan* [3/389]).

Moreover, the internal ‘specialists’ have a real advantage because they are personally involved in the everyday running of the company and thus best suited to offer hands-on experience. Now, with respect to this, who in their right mind would deny insourcing to the internal ‘specialists’ in the West? However, *Islamically* speaking, this is an alien concept because when we bring Qadhi’s insourcing/outsourcing terminology out of its industry context and place it in the framework of passing legal fatāwā, the terms ‘insourcing’ and ‘outsourcing’ are now defined by the dictates of Islām. The term ‘insourcing’ can now only be used for the true ‘ulamā, irrespective of geographical location, because insourcing is no longer only determined by borders and boundaries; rather, it is dictated by knowledge, prudence, adherence to the sources of Islām and scholarly approval. What good do we stand to gain from insourcing when the people we are insourcing to either lack real scholarly credentials or are prone to a liberal approach when it comes to adhering to the divine sources?⁷³ All we are set to gain is that *“people will take as their leaders ignorant people who when consulted will give their verdict without knowledge. So, they will go astray and will lead the people astray.”*⁷⁴

Therefore, Qadhi’s outsourcing proposition is highly problematic for two reasons:

(1) It suggests that there are multitudes of people here in the West who are qualified to pass *fatāwā* and thus creating the illusion that there is a parity between so-called ‘ālims here in the West and the true ‘ulamā overseas. Truth be told, Qadhi has already provided us with a compelling quote that supersedes his suggestion anyway: **“there are scholars here in Detroit, there are so many ‘ālims”**.

(2) It suggests that the true ‘ulamā overseas, despite their vast knowledge and scholarly chain of recognition, are not best equipped to deal with our domestic sociopolitical issues because

⁷³ This will be made clearer in paper three when dealing with the MBC Omar series and Qadhi’s liberal solution.

⁷⁴ Saheeh al-Bukhārī vol. 1, no. 100 and Saheeh Muslim.

they are not physically situated amongst us and thus lack insight into our 'unique' affairs which can only be truly understood by those who reside amongst us. This can be deconstructed from two angles:

- a) Even if Qadhi’s basic proposition of there being a disconnection between the overseas ‘ulama and the Muslims in the West holds weight, how can that ever justify refusal to implement Allah’s command: **“So ask the people of the message if you do not know”?**
- b) Why would it serve our interests to completely remove the overseas scholars out of the loop? Why cannot the cure for our problems, which are essentially of our own doing, be to forge a greater alliance between two parties: **the first party**, from amongst our midst, are those who can overcome the language barriers and can adequately detail issues that are unique to us in the West to **the second party** who are deeply rooted in knowledge (*ar-Rāsikhūn fil ‘ilm*) and possess all the legal tools that are required to issue *fatāwā*? Not only do we get the unique expertise of the inheritors of the Prophets, which is the essential ingredient, we also get competent people, who are culturally familiar with our way of life in these non-Muslim lands, to feed to the ‘ulama detailed information.

A few paragraphs back, we partially quoted an authentic hadīth regarding the dangers of ‘outsourcing’ *fatāwā* to the wrong personnel. The hadīth stated, *“people will take as their leaders ignorant people who when consulted will give their verdict without knowledge. So, they will go astray and will lead the people astray.”* It clearly shows that the masses will take as their scholars people who are not in a position to pass legal verdicts, and as a result, they will lead the people and themselves away from the wide, straight path of Allāh. The omitted part of the hadīth provides us the reason why this will happen, by stating that Allāh will gradually take away the scholars until there remains none, and this will inevitably lead to the partially blind leading the blind in legal affairs and teaching. This sequence of prophesied events is not only logical but also a necessity

because there will be no credible scholars to seek knowledge-based fatāwā from. But what about today when we still have a relatively large contingent of real ‘ulamā? How is it possible in today’s time that people have the same traits as those who are mentioned in this hadīth? In other words, why are we seeking fatāwā from Muslims who are not scholarly recognised when the true inheritors of the Prophets are alive and well?

The answer to this question is complex; however, the easiest part of this answer is that when two elements dangerous converge, this results in a disconnection from the true ‘ulamā and a misplaced dependency is naturally directed towards those who have no rightful scholarly claim. The first element is **ignorance of the true traits of the ‘ulamā** and the second element is **misapplication of scholarly titles**

FLOODING THE WESTERN MARKET WITH FAKE SCHOLARLY CURRENCY

Don’t outsource to Bangalore or to Timbuktu or to Saudi Arabia; find people who are understanding your own situation.

...in my humble opinion, my advice to you: look local, find ‘ulama -- and there are ‘ulamā, Alhamdulillah -- there are scholars here in Detroit, there are so many ‘ālims, go to people in other communities but look to people who are living here.

These audacious, liberal statements clearly suggests that Qadhi is confidently relying on the general ignorance of the masses regarding the true characteristics of the inheritors of the Prophets. If the person saying these words were truly oblivious to the traits of the people of knowledge, he could be pardoned for his ignorance and then duly educated, but Qadhi, of all people, knows full well who are the true ‘ulamā and the prerequisites they are required to meet before they can be classed as such. So why is Qadhi then blurring the lines and muddying distinctions which were made by our Prophet himself:

وَفَضْلُ الْعَالِمِ عَلَى الْعَابِدِ كَفَضْلِ الْقَمَرِ عَلَى سَائِرِ الْكَوَاكِبِ

“The superiority of the ‘ālim over a slave is akin to the superiority of the moon over the rest of the celestial bodies”.⁷⁵

Based on Qadhi’s words **“there are so many ‘ālims, go to people in other communities but [the main thing is to] look to people who are *living* here,”** it seems the chief prerequisite of a Yasir-Qadhi-defined ‘ālim is that he be residing amongst us. It seems that this incidental quality, which is not a prerequisite, takes precedence over all scholastic prerequisites. Qadhi’s advice reads like this: even if a scholar has great knowledge and ability to extrapolate from the sources and he is known by the scholars to be a true scholar, if he is not living here in America, then my ‘humble’ advice is not to outsource to him. Seriously, what sort of brotherly advice is this?! Let us contrast Qadhi’s speech with the second condition of what a fatwā-seeking person is required to do when requesting a fatwā:

The second condition is that he only seeks fatāwā from those who he knows or he is fairly sure are from the people who are qualified to issue fatwā. He should

⁷⁵ Narrated by al-Tirmidhi, 2606 and graded as sahih by Shaykh al-Albāni.

choose the most reliable muftis in knowledge and piety. It is even said that this is an obligation.⁷⁶

What lends theoretical appeal to Qadhi’s ‘humble’ advice is that, if there were, as Qadhi casually posits, these multitudes of ‘ālims’ in Detroit, then not outsourcing to their contemporaries overseas would make reasonable sense. It would be a simple case of killing two birds with one stone: not only would they have in their midst true ‘ulamā, they would also be highly familiar with the circumstances of the land and its people. Granted that this sounds all well and dandy in theory, but the real question is, who are these multitudes of ‘ālims’ that live in Detroit, and who gets to evaluate these multitude of ‘ālims’ as scholars to begin with? Are they scholars simply because Qadhi has anointed them with scholarly titles because they fit his broad definition of scholarship? Then we respond to this with a well-known scholarly maxim:

ادعاء المسميات لا يلزم ثبوت الصفات

Claiming Names/titles does not necessitate affirmation of its characteristics

Or are they scholars because they fulfil all the Islāmic scholastic prerequisites? This question will be best answered in the next section. However, one thing we do know and that is, it is not difficult for Qadhi to nonchalantly throw around scholarly titles because he even has a scholarly view of himself: **“Wallāhi, as a student of knowledge, as a shaykh, I say this is a very solid position.”**

Al-Khateeb al Baghdādee said, “Not every claimant of knowledge is in possession of it, and not everyone who ascribes himself to knowledge is from its people.”

⁷⁶ Shaykh al-Uthaymīn in his book *Sharh al-Usool min ‘Ilm al-Usool*, p. 620.

Scholarly self-anointment is a lot harder than anointing others; therefore, it stands to reason that anointing others as scholars and ‘ulamā must be a walk in the park for Qadhi.

While we are here, let us take Qadhi’s case of self-anointment and contrast it with an illustration from the life of a true scholar: Shaykh Nasr ad-Deen al-Albāni,⁷⁷ a contemporary prominent shaykh of our times. Prior to delivering a lesson, Shaykh al-Albāni was introduced with much praise and reminders of his status; however, the Shaykh rejected the introductory praise and, in tears, relayed a statement which is commonly attributed⁷⁸ to Abū Bakr As-Siddeeq:

اللَّهُمَّ لَا تُؤَاخِذْنِي بِمَا يَقُولُونَ، وَاعْفِرْ لِي مَا لَا يَعْلَمُونَ، وَاجْعَلْنِي خَيْرًا مِمَّا يَظُنُّونَ

O Allah, do not hold me accountable for what they say [about me], and forgive me for what they do not know (about me), and make me better than that which they think (me to be).

Furthermore, this great Shaykh, Shaykh al-Albāni, went on to call himself “a student of knowledge and nothing more”. And such is the impact of true knowledge, which cultivates humility as opposed to sublimity, we see mountains of knowledge, like al-Albāni, shunning scholastic titles, although such titles were fittingly forged for men of and greater than his calibre. Qadhi, however, who is not a scholar nor was he even referred to as one, refers to *himself* as an *ālim* which makes you wonder about his numerous appeals to his ‘humility:’

- “...you had a group of, in my humble opinion, forward-thinking, realistic ‘ulama ...”

⁷⁷ <http://www.alalbany.net/en/biography/>

⁷⁸ It is stated that Abū Bakr said this statement to someone who praised him directly in his face. However, Some of the scholars of hadīth disagree over the authenticity of attributing this statement to Abu Bakr.

- “...in my humble opinion, this is my suggestion to you...”
- “In my humble opinion -- [and] I feel very passionately about this --”
- “So, in my humble opinion...”

As the saying goes

لسان الحال أبين من لسان المقال

The tongue of state is more telling than the tongue of speech⁷⁹

We will complete the reminder with some excellent advice for the likes of Qadhi from another major scholar and a contemporary of Shaykh al-Albāni, Shaykh Sālih ibn Fawzān al-Fawzān:

والواجب على الإنسان : أن يعرف قدر نفسه ، فلا يجعل نفسه في مكانة أعلى مما تستحقها ، بل الأمر أخطر من ذلك ، وهو أن يخاف من الله سبحانه وتعالى ؛ لأن الأمر أمر تحليل وتحريم ، وجنة ونار ، فلا يورط نفسه في أمور لا يحسن الخروج منها.

What is required for a person is that he knows his own level and that he does not erect for himself a position that is greater than he deserves. Actually, the matter is severer than that and what he should do is fear Allāh since the matter is one of legalising and forbidding, Jennah and the Nār. Therefore, he should not involve himself in matters he is not adequately capable of dealing with.⁸⁰

So what grants Qadhi the liberty to make mind-blowing statements like “I seek Allah’s refuge from ever trying to make you disconnected from Islamic scholarship” but at the same time he can brazenly proposition us with not outsourcing *fatāwā* to the inheritors of the prophets? It is by flooding the market with counterfeit scholarly currency, which inevitably

⁷⁹ This Arabic proverb equates to the English one “actions speak louder than words”.

⁸⁰ *I’ānah al-Mustafeed bi Sharh Kitāb at-Tamheed.*

causes a reduction in real scholarly currency, that allows double-standard statements like this to be aired publicly.

THE PARODY THAT CREATED A PARODY

This statement “**look to people who are *living here***” also implies a caricature representation of the ‘ulama that suggests there are situations here in the West that the overseas ‘ulama can never comprehend no matter how much they are made aware of our ‘unique’ situations. However, Qadhi, later on in his lecture, provides us with a quote that lends detail to his statement “**look to people who are *living here***”:

You cannot get a fatwā about someone living in a secular democracy from someone who has never lived in a secular democracy. You cannot get a fatwā about how to interact with your homosexual neighbour when a person has never met a homosexual person in his life.

If the objective of our critique and refutation were motivated by designs of destroying the individual, taking no prisoners, burning bridges,⁸¹ or anything else that stigmatises the Salafī da’wah (by internal or external forces), then the above Qadhi quote would be ripe for the picking. However, intellectual honesty and a measured understanding in refutation sometimes requires a distinction between the **apparent meaning** that words can communicate and the **intended meaning** behind the communicated words. That being said, even though an

⁸¹ This has never been the intention of any of our Yasir Qadhi critiques. Truth be told, many years back, when we wrote our critique on Qadhi’s *Istiblāl* theory, we placed a footnote on the first page of the paper which states: **The authors of this paper attempted to notify Yasir Qadhī of their observations via email three months ago, emailed to two email addresses for Yasir Qadhī, yet a response from Yasir Qadhī was not forthcoming.**

erroneous message can be communicated unintentionally that does not mean that 1) the person themselves is completely free from blame and 2) that the error in his words should not be highlighted and corrected so as to obviate erroneous communication to the masses, which is the essential thing and misrepresentation of the speaker’s intention.

With this firmly in mind, we can look at Qadhi’s quote from 2 angles:

1) its surface meaning and

2) with its possible contextualised/intended meaning

Its surface meaning

The most important thing to observe about Qadhi’s above statement is that he has made an arbitrary amendment, in the form of an absolute restriction, to the legal conditions that are required to be fulfilled for both seeking and issuing fatāwā.⁸² Think about it for a moment and let the absurdity of his statement be absorbed: Qadhi is apparently teaching us here that a fatwā cannot be given on how to interact with a homosexual neighbour in the West unless the mufti has met a homosexual person *in person*. So, according to Qadhi’s DIY manual on issuing fatāwā, how many times is a mufti required to meet a homosexual before a fatwā can be issued on how to interact with him in this Western permissive society? Does this mean that we are required to search high and low for a scholar in the West who has met a homosexual person before we can seek clarity on correct Islāmic social interaction with immoral people? Is Qadhi required to maintain across-the-board consistency in his logic and argue that personal interaction with immorality is a requirement as a general rule for issuing fatāwā in the West?

⁸² This will be made clear in a subsequent section.

Is the case of the homosexual an invariable case? What if the homosexual’s neighbour is a Muslim woman? Could it not be argued that having a homosexual neighbour is a lesser of an evil than having a non-Muslim male heterosexual neighbour in everything-is-halal societies?⁸³ You could argue that a Muslim male neighbour would be required to observe the *ahkām* of *khulwa*⁸⁴ because his neighbour is a homosexual. The point here is that the uniqueness in such scenarios would not be one of ruling but one purely of twisted circumstance. However, due to the perfection of Islām, it already has rulings that instantly come into play to tackle such quaint scenarios.

So what scene can we conjure up whereby an ‘ālim is rendered legally ineffective (in this given scenario) because he **“has never met a homosexual person in his life”**? Well, based on Qadhi’s simplistic view of the overseas ‘ulamā, his version of events might play out like this:

Detroit Fatwa-seeker: “O Shaykh of the East, I have a homosexual neighbour here in the West and I don’t have a clue on how to interact with him that would prevent me from being labelled a homophobe and an extremist by my other non-Muslim neighbours. Can you please impart to us some of your knowledge and expertise in fiqh and advise us on the best course of action?”

⁸³ One of the most heinous of sins is to commit adultery with the wife of your neighbour: 'O Messenger of Allāh, which sin is most grievous?' He said: 'Setting up a rival to Allāh while it is He that created you.' I said: 'Then what?' He said: 'Killing your child so that he will not eat with you.' I said: 'Then what?' He said: 'Committing adultery with your neighbour’s wife.'" (Agreed upon)

⁸⁴ *Khulwa* by definition includes every place that intentionally or intentionally prevents other people from entering. This is a very important definition because some definitions, such as the definition provided by Ibn Muflīh, limit *khulwa* to homes. Therefore, *khulwa* includes places where a man and a woman can be seen but they cannot be heard and so they can converse to the exclusion of all others. One has to remember that *khulwa* is forbidden because it is a means to *zīnā* and anything that directly leads to *harām* is itself forbidden.

Shaykh from the East: “Regretfully, I have never met a homosexual person from the West so I am unable to advise you on how to interact with him in your immoral society because this would be speaking without knowledge. However, what I can advise—because apparently it is an amended condition of issuing fatwā—is that you search high and low for a ‘ālim’ in Detroit who has had some personal interaction with a homosexual and he will give you the Islāmic position on how to interact with your homosexual neighbour.

This dialogue reads as a parody and is highly caricaturish, correct? Well this is no more than a play on Qadhi’s words which, on their surface, are disconnected from reality and thus contain an embedded parody of themselves.

Conversely, a scenario which would be more likely is this:

Detroit Fatwa-seeker: Ya Shaykh, I have a homosexual neighbour here in the West!!

Shaykh from the East: Okay, are there any more details you can provide for me apart from he’s a homosexual, *wal’iyaathul billāh*, who lives next door to you?

Detroit Fatwa-seeker: Eerrhh... he lives next door to me here in a society where homosexuality is legal and deemed natural .

Shaykh from the East: Yes, I am aware of this.

Detroit Fatwa-seeker: [in a highly sceptical tone] How can you know this if you haven’t met a homosexual in your life?!

Shaykh from the East: Well, homosexuality is not just endemic to non-Muslim societies; there are homosexuals in Muslim societies too. Actually, strange as it might sound, homosexuality is not illegal in some Muslim countries, such as Indonesia, Egypt and Turkey. Therefore, why am I legally required to meet a homosexual before I can pass a fatwā on interacting with homosexuals in western societies?

Detroit Fatwa-seeker: ~~Because Yasir Qadhi said so.~~

Detroit Fatwa-seeker: Because you live in a ‘Utopia’ in Saudi and therefore you lack the necessary tools: you have never met a homosexual and you don’t live here in a secular society.

Shaykh from the East: Okay. So what is so unique in your secular society that it requires me to live in the West and meet a homosexual before I can instruct you on how to Islāmically interact with your homosexual neighbour? Cannot we just simply bridge the gap by having someone who highly familiar with this unique case to explain its details to me which will enable to assist Islāmically in the best course of action?

Detroit Fatwa-seeker: I cannot think of a single plausible scenario but I do know that I heard these two conditions from a Muslim visionary here in the West called Yasir Qadhi who, [slightly paradoxically] grew up in your utopia, Saudi. That must count for something, right?

Shaykh from the East: Who’s Yasir Qadhi?

[The lines that delineate circular reasoning dawn on the young man from the West and he apologises to the Shaykh for involving him in an exercise in futility and abruptly excuses himself.]

Its possible contextualised/intended meaning

Perhaps what Qadhi is trying to say is that an overseas ālim is in no position to give a fatwā on interaction with a homosexual neighbour here in the West unless 1) he has met a homosexual in person and 2) he is intimately familiar with western political and social context. If we apply the least worst interpretation to Qadhi’s words, he is teaching us that scenarios pertaining to interaction with homosexuals here in the West can differ from scenarios of interaction over there in Muslim countries. This much could be true; however, where he goes with this distinction is very untrue and results in a non-sequitur of sorts.⁸⁵

Islām is a universally applicable religion that transcends time and place. Islām has taught us everything from interaction with our Lord and Creator to interaction with our neighbour, whether Muslim or non-Muslim, and this extends to all places and times because there is no legally-sanctioned religion or prophet after Islām. There is not a single problem that results from social interaction except that the Islāmic shar’iah has a solution or answer for it. We can view Islām as being the universal pharmacy from where we get our medicine and the inheritors of the Prophets are the doctors who write for us our prescriptions after consultation. As long as the doctor is qualified in human anatomy and medicine and he understands the disease or illness he is tackling, where he lives is immaterial.

Dealing with a non-Muslim neighbour is a subsidiary of أحكام التعامل مع غير المسلمين (rulings pertaining to dealings with non-Muslims)⁸⁶ which has been thoroughly dissected and spoken about at length by the ‘ulamā of Islām for over a millennia. Therefore, what circumstance can arise today that is so unique and specialised that unless our ‘ulamā have personally met a

⁸⁵ Forgive us for the big word but we could not resist its usage due to its aptness. A non sequitur: fallacy in which a conclusion does not follow logically from what preceded it.

⁸⁶ <http://www.assakina.com/politics/6568.html>

homosexual in this society, they are rendered legally incompetent to issue fatāwā in such a scenario, despite having at their disposal highly detailed works on interaction with the non-Muslims in the lands of the Muslims? Regardless of the society and no matter how multifaceted the state of homosexuality in that society is, the vanguards of Allāh’s Book and His Messenger’s Sunnah are provided the adaptable tools to construct solutions thanks to Islām’s universal application:

﴿٨٩﴾ **وَنَزَّلْنَا عَلَيْكَ الْكِتَابَ تَبْيَانًا لِّكُلِّ شَيْءٍ وَهُدًى وَرَحْمَةً وَبُشْرَىٰ لِلْمُسْلِمِينَ**

And We have sent down to you the Book as clarification for all things and as guidance and mercy and good tidings for the Muslims.⁸⁷

DISTINGUISHING GENUINE SCHOLARLY CURRENCY FROM ITS FAKE COUNTERPART

Even before we can put in play measures that allow us to spot counterfeit ‘ulamā, we first have to cultivate our hearts to understand that the true ‘ulamā are the wires that connect the Muslims to their Islāmic life support machines that enable us to breathe and live Islām correctly, and that without these wires, the Islāmic life support machine is rendered virtually useless. Thus, we must make sure that not only are we connected to these wires correctly but that these wires we are connected to are recognised by the machine. Failure to do so will only cause a breakdown in the efficiency of the life-support machine, and it can also cause people to incorrectly blame the machine (i.e. Islām) when the real root problem was inferior compatibility. We need our scholars simply because we need our knowledge and the scholars are the dispensers of knowledge. Imām Ahmed said

⁸⁷ *An-Nabl* 15/43.

الناس محتاجون إلى العلم أكثر من حاجتهم إلى الطعام والشراب لأن الطعام والشراب يحتاج إليه في اليوم مرة أو مرتين ، والعلم يحتاج إليه بعدد الأنفاس.

People are in need of knowledge more than they are in need of food and drink because a person only requires food and drink once or twice a day but knowledge is required with every breath they take.⁸⁸

Shaykh Abdul’Azīz ibn Bāz will provide us a better understanding of the importance of identifying and correctly connecting ourselves to our Islāmic life support machines:

The people of fatwā are those who gain understanding from Allāh’s Book and from the Sunnah of His Messenger. They have acquired for themselves a first rate understanding regarding what Allāh has permitted, prohibited and obligated. The people of knowledge, fiqh and goodness have testified for them and that they are people [religiously] competent to issue rulings. It is inappropriate to seek rulings from all and sundry even if they ascribe themselves to the deen, worship or knowledge until the people of knowledge are asked about the individual and provide the questioner with insight via reference to those who are fully acquainted with the individual [from whom rulings are sought], or those who are trusted in terms of their recognition as people of knowledge, until they mention that indeed the individual is indeed from the people of fatwā and suited to issue rulings regarding that which is halāl or harām and the likes. The intent of all of this is to demonstrate that this matter requires verification rather than haste, as not all who ascribe themselves to religion, worship or knowledge are suited for that [issuing rulings]. Rather there has to be fiqh of the deen and

⁸⁸ *Mijtabā Dār as-Sa’ādah* (vol 1 p. 65-66)

foresight. There has to be piety and taqwā of Allāh. There also has to be caution against being hasty in giving fatwā and having the audacity to issue rulings without the requisite knowledge and without truth, *la hawla wa la quwwata ila billāh*.⁸⁹

Let us now have a better look at some of the attributes of these wires that link us to our Islāmic life support machines. Shaykh Muhammad ash-Shawkāni⁹⁰ provides for us the scholarly measures by which we can identify a legitimate mujtahid:

1. He (the mujtahid) should have knowledge of the shar’i evidence that he needs for the purpose of ijtihād, such as verses of the Qur’ān and hadīths that speak of rulings.
2. He should have knowledge of the matters pertaining to the soundness or weakness of hadīths, such as the isnād, the men in the isnād and so on.
3. He should be aware of what abrogates and what is abrogated (*al-nāsikh wa’l-mansūkh*) and issues on which there is consensus (*ijmā’*), so that he will not issue a ruling on the basis of something that has been abrogated or that is contrary to scholarly consensus.
4. He should have knowledge of various matters affecting the ruling, such as reports of specific meanings, reports that set limits, and so on, so that he will not issue a ruling that is contrary to that.
5. He should have knowledge of the Arabic language and *usūl al-fiqh* that has to do with verbal evidence, such as what is general and what is specific, what is absolute and what is restricted, what is mentioned in brief and what is

⁸⁹ From the Shaykh’s website: <http://www.binbaz.org.sa/mat/10688>.

⁹⁰ http://en.wikipedia.org/wiki/Muhammad_ash-Shawkani

mentioned in detail, and so on, so that his rulings will be in accordance with what is indicated by that evidence.

6. He should have the ability to derive rulings from the evidence.⁹¹

We wonder how many of these conditions the ‘ulamā’ of Detroit meet?

We will end this section when some excellent advice and a beautiful reminder of the attitudes of the Imāms of old:

Do not be deceived by the outward appearance of a person, or his fame among the laymen, because these two factors may influence your choice of who to counsel on religious matters. A person's fame amongst the laymen may be unwarranted or deceitful. There is great difference between religion and religiosity, knowledge and fatwā and between storytelling and religious instruction. Religion is knowledge that has its own sources, methodologies and principles and, like other branches of knowledge, it requires specialization and devotion to its study. Religiosity is a manifest quality in a person who may not necessarily be a scholar or even educated. It is worthy to mention at this point the words of Imam Ibn Sirin: "This knowledge is religion, so be careful from whom you take it." A man once entered upon Imām Rabi'a al-Ra'i, Imām Malik's teacher, and found him crying. He asked, "What makes you cry? Is it a catastrophe that has befallen you?" He replied, "No, but fatwa is being solicited from those who have no knowledge. Indeed, a grave matter has befallen Islām. Some of these people are more worthy of incarceration than thieves." As Ibn Salah, may Allah have mercy on him, said, "Imagine what he would have said

⁹¹ *al-Usool fi 'Ilm al-Usool*, p. 85, 86; *Sharh* (commentary thereon), p. 584-590. Translation taken from Islam Question and Answer website: <http://islamqa.info/en/145071>

had he lived in our times! There is no might or power save through Allah; He is sufficient for us and the best disposer of affairs.⁹²

Imagine what he would have said had he lived in our dire times!

THE WHAT-IF CLAUSE

What if we were to embrace Qadhi’s completely cynical view and accept that some of the ‘ulamā (whoever they are) *did* embarrassingly stand in the way of the anti-abolitionist movement, what would that stand to prove ultimately? Let us not forget that Qadhi did not scour the archives of scholarly fatāwā just to teach us how incompetent the ‘ulamā can be on occasions. Rather, these carefully hand-picked fatāwā play a central role in Qadhi’s endgame. His endgame is to teach us an oft-repeated, cautionary tale of the redundancy of outsourcing to the ‘ulamā overseas when we have competent ‘ulamā amongst us here in the West. However, when you analyse Qadhi’s endgame and the premise he utilises to justify it, you will find that the premise he adopts does not support his endgame for various reasons.

Reason one

By the strict definition of the word ‘ālim, there are no scholars or major scholars over here in the West. At best, we have some strong students of knowledge who reside amongst us. Thus, Qadhi’s outsourcing proposition is flawed from its very basis. Qadhi seeks to gloss over this flagrant flaw by relying heavily on the inability of the masses to discern the true ‘ulāmā from speakers, personalities and students of knowledge by labelling them all as ‘ulamā or scholars: **“and there *are* ‘ulama, *Alhamdulillah* -- there are scholars here in Detroit, there are so many *‘ālims...*”**

⁹² The Etiquette of the Mustafti (one who asks a fatwa). The committee of Fatwa, Egypt (Dar Al Ifta).

Reason two

When you gather all of the fatāwā that Qadhi presents to argue his case, you will see that they have nothing to do with outsourcing fatāwā to ‘ulamā overseas. The fatāwā pertaining to coffee, the printing press and slavery were all issued by ‘ulamā who resided amongst their own people. Admittedly, Qadhi here could retort by stating that what this proves is, if the ‘ulamā can be out of touch with current affairs that take place in their own lands then logic dictates an even greater social detachment could take place between Muslims in the West and the scholars overseas. This reasoning has a measure of logic, but justice and fairness require us to only accept this retort if Qadhi could somehow prove that the ‘ulamā (and we are talking about the true ‘ulamā) were as consistently wrong as they were right or more wrong than right when it comes to issuing sociopolitical fatāwā. In other words, why would exceptional cases of some of our true ‘ulamā getting things wrong be a just case for never referring to them again for fatāwā?! The idiomatic expression “throwing the baby out with the bath water” instantly springs to mind. We added the clause here ‘never referring to them again’ because Qadhi does not explicitly restrict the non-outsourcing of fatāwā to issues which are only unique to Western-based Muslims. And even if he did not intend this, his speech still carries the potential to be understood like this, and thus it is an irresponsible way of speaking to the masses.

Reason three

For argument’s sake, let us concede that somehow all these fatāwā do have a direct correlation to Qadhi’s outsourcing proposition, where is Qadhi’s evidence that this applies to the overseas scholars who hold firmly to the Book of Allāh and the Sunnah? Qadhi’s blanket use of the word ‘ulamā requires us not to make an exception unless Qadhi makes one for us. So what incriminating evidence does he have to include the true inheritors of the Prophets into his non-outsourcing proposition? Is this merely guilt by association and thus a miscarriage of

justice or does Qadhi have anything of real substance greater than generalised scholarly labels that indict everyone but no one specific?

Reason four

Let us push “for argument’s sake” into overdrive and concede that all of Qadhi’s handpicked fatāwā were indeed exceedingly embarrassing, how would that justify a wholesale call to forsake the true ‘ulamā by insourcing legal verdicts to a people who are not even Islāmically qualified? Qadhi’s insourcing and outsourcing proposition leaves a convenient void to be filled by the likes of Qadhi and scores of other self-styled scholars throughout the West. So by getting rid of the competition, as it were, only Qadhi and his fellow, like-minded folks become the objects of Allāh’s command:

فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ ﴿٤٣﴾

So ask the people of the message if you do not know.⁹³

And this is what those who call to the non-outsourcing are set to gain. Actually, let us dispense with the euphemism ‘non-outsourcing’ and replace it with its true term ‘alienating’ or even worse ‘usurping’. It is only by reinstatement of real terms do we get to truly expose the true extent of Qadhi’s agenda. Over the last ten years or so, Qadhi has undergone a mercurial metamorphosis which has seen him become increasingly disenchanted and disillusioned with the call to Salafiyyah. This in turn has led Qadhi to go on a crusade against the true ‘ulamā⁹⁴ because the true ‘ulama, either in word or deed, are affiliates of Salafiyyah.

⁹³ *An-Nahl* 16/43.

⁹⁴ Qadhi’s crusade against the ‘ulamā and Salafiyyah has been an on-going trend for years. One only needs to read Qadhi’s words which are dissected diligently in the paper [Did modern salafi scholars invent the notion of ‘istiblal’ while it was not mentioned by scholars of the past?](#) to see that Qadhi has an insidious agenda against the ulamā.

“EMBARRASSING” CASE #3:

RADIOS, MICROPHONES AND BELITTILING THE ‘ULAMĀ

Qadhi states in his lecture

So, the point being that throughout history there have been so many episodes -- my own teachers in Medina they tell me that when the radio was first introduced in Saudi Arabia -- and this isn't just in Saudi Arabia; in every Muslim land the same thing happened -- when the radio was first introduced pretty much *all* the scholars said “This is harām”. And they *even* said “This is *Sihr*”, *magic* because how can you have this device and we hear somebody sitting in London and Timbuktu and...in Geneva and we hear him, you know, on this radio; this *must* be *Sihr!*

The noble Shaykh Muhammad ibn Sālih al-‘Uthaymeen provides us a different version of events which conflicts heavily with Qadhi’s statement “**when the radio was first introduced pretty much *all* the scholars said “This is harām”:**

In regards to the radio, then none of the investigative scholars [Muhaqqiqeen] prohibited it, rather the people who were ignorant of its reality prohibited it. Yet the verifying ‘Ulama, in particular our Shaykh ‘AbdurRahmān bin Sa’di (*rahimahullāh*), did not deem it as being from the prohibited things, rather they viewed it as something which Allāh has taught to his creation, and it could be beneficial or harmful depending on its circumstance. Likewise with microphones, again when they first appeared some people rejected them without adequate investigation, as for the investigative scholars then they did not reject them, rather they viewed it to be from the favours of Allāh in making it easy for their sermons and admonitions to reach those far way.

Qadhi goes on to make these people who he identifies as the ‘ulamā the object of ridicule and laughter:

And my teachers tell me ...that their teachers told them that when the radio came to Saudi Arabia, they, actually, some of them, actually went to the -- you know the transmission towers, you know, the, the -- they actually went underneath those transmission towers and read Qur’ān hoping to destroy the *sihr* of the radio waves [Qadhi smirks and pauses while the audience laugh] hoping to destroy the -- khlaass -- there’s not going to be anymore radio waves and we’re going to destroy it.

Shaykh Uthaymeen states

Defaming and disparaging the honour of the people of knowledge who are well known for their guidance, propagation of knowledge and calling to Allāh, the Most High, is undoubtedly from the severest forms of backbiting and which itself is from the major sins. Fault-finding and disparaging of the people of knowledge is not the same as fault-finding and disparaging of anyone else besides them because fault-finding and disparaging necessitates an aversion towards them and an aversion of what they promote and propagate of Allāh’s sharī’ah, since alienating them (i.e. scholars) includes an alienation of Allāh’s sharī’ah. This amounts to diverting from the path of Allāh, for which a person bears a tremendous sin and crime. Moreover, this necessitates from those who shun the likes of these ‘ulamā that they turn their attention to an ignorant people who lead people astray due to a lack of knowledge.

This whole lecture by Qadhi includes a constant theme of belittling and undermining the inheritors of the prophets which culminates in the above quote from Qadhi, but during his planned course of undermining and belittlement of the ‘ulamā, he has the audacity to stop, take a breath and state:

Why am I telling you all of this? Am I wanting you to disrespect the ulema? *La hawla wa la quwwata illa billāh!* I seek Allah’s refuge from *ever* hinting at such a matter.

عن الذهبي عن ابن المبارك قال حق على العاقل أن لا يستخف بثلاثة العلماء والسلاطين
والإخوان فإنه من استخف بالعلماء ذهب آخرته ومن استخف بالسُلطان ذهب دُنْيَاهُ وَمَنْ
استخف بالإخوان ذهب مُرُوءَتُهُ.

ath-Thahabi narrated that [Abdullāh] ibn Mubārak said, “It is a duty upon the sensible person not to belittle [the status] of three: the ‘ulamā, those in authority and his brothers. So whoever belittles the ‘ulamā, will lose his [place in] the hereafter; whoever belittles the people of authority, his dunya will be lost and whoever belittles his brothers, his sense of honour will be lost.”⁹⁵

In the third and final paper, we will, *insha Allāh*, be looking at

- the MBC Omar series,
- the printing press in the Muslim world
- and Qadhi’s attitude towards Salafiyyah.

⁹⁵ *Siyar al-A’alām An-Nubulā’* 17/251