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Slavery, Indenture, and Freedom

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Slavery, Indenture, and Freedom: Exegesis of the 'mukātabà Verse' (Q. 24:33) in Early Islam

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Introduction

Indenture in English refers to a two-person contract; the 'denture' is the pair of jagged edges that could be matched up to identify two identical copies.¹ It was used historically for the institution of indentured servitude by which many colonists from Europe to North America entered into such a contract in exchange for passage.² In Islamic law, *mukātaba* ('indenture') refers to approximately the reverse: a method by which slaves can enter into a contract to buy their freedom. The *mukātab* ('indentured servant') usually has a legal status distinct from other slaves, though how this difference should be articulated was subject to much early debate.³ What was agreed, however, is that the basic form of the contract requires a total price and payment over a set term (typically in instalments).⁴ Though there is no doubt that slavery was a significant part of seventh-century Arabian society, the available sources do not seem to allow a definitive answer to whether the *mukātaba* contract⁵ existed in the Hijāz before the revelation of the Qur'an.⁶

The standard Qur'anic basis for the institution is Q. 24:33, which contains a sentence usually translated along the following lines: *those who desire an indenture (al-kitāb) from amongst your slaves, write [a mutual contract] with them (fa-kātibūhum) if you see good (khayr) in them and give them from God's wealth (māl Allāh) that he has given you ...*⁷

Patricia Crone, though acknowledging that Muslim tradition has unanimously read this verse as referring to *mukātaba*, treats this as an example of early disconnect between the Qur'anic text and its normative use as law.⁸ Her argument is that the linguistic context of Q. 24:32 and the first part of Q. 24:33, which refer to marriage, as well as the overall

message of *Sūrat al-Nūr* about sexual propriety, make it obvious that the verse refers to supporting slaves who wish to marry. She argues,⁹

The institution of *kitāba* has its roots in provincial law, and it does not owe a single feature to the Qur'an, not even the practice of charitably forgoing the last instalments: the charitable practice was read into the book rather than derived from it.

In this article, my main focus will be on how Muslim exegetical tradition records the early understanding of this part of the verse. I will not, therefore, study the coherence (or lack thereof) of this interpretation with the rest of the verse, passage and sura, or assess Crone's reading from this angle.¹⁰ It is worth noting, however, that Crone's puzzlement, if not her solution, was anticipated by the theologian and exegete Abū Maṣṣūr al-Māturīdī (d. 333/940). He too thought that the collocation of the words *al-kitāb* and *fa-kātibūhum* in the verse have an obvious sense, as follows:¹¹

The manifest (*zāhir*) meaning of this is not indenture (*al-kitāba*), but rather the well-known Book (*kitāb*) of God, Most High, which is its meaning in an unrestricted sense. That is, they ask their masters for instruction in the Book (*kitāb*). However, the people have not understood that, but rather the indenture (*kitāba*) of male and female slaves, taking that as the verse's meaning.

For al-Māturīdī, who is also an early *uṣūlī* ('legal theorist'), the important thing to consider is not total passage context, but whether the word *kitāb* within its sentence has been conditioned by other immediate lexical elements, or left unrestricted, in which case it would mean the Qur'an.¹² Perhaps a lesson here is that any 'obvious' meaning is only so within a certain set of hermeneutic assumptions circumscribed by the history and experiences of the commentator.¹³ While revealed scripture represents a community's record of transcendent divine communication, including God's law, it is up to diverse contingent human beings to remember, transmit, and interpret the injunctions that they receive in the light of their own experiences.

It is with this frame in mind that I will study a wide range of early exegetical reports on Q. 24:33, examining the juristic questions that were answered through seeking to clarify its ambiguous language. This remains open to multiple subtleties of interpretation even once its basic referent has been settled. The three main aspects I will analyse are as follows: whether the command form of *fa-kātibūhum* (lit. 'write with them') connotes obligation, recommendation, or permission; the precise meaning of the condition to see *khayr* ('good') in the slaves; and the implications of the instruction to give them *māl Allāh* ('God's wealth'). This study uses the patterns of interpretation for these three phrases to map the main exegetical trends towards Q. 24:33 as they emerge against the