

# SLAVERY AND THE HOUSEHOLD

IN BENGAL, 1770 - 1880

by

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## ***Slavery and the Household in Bengal, 1770-1880.***

This thesis outlines a political economy within which slaves lived and worked, within the households of the hegemony in Bengal between the end of the eighteenth century and the end of the nineteenth. Within household-polities that contained slaves, there were many distinctions according to skill, age, area of origin, and principally of gender. Female slaves, of great importance within the inner slaving economies of India, were however differently thought of, and their work differently conceptualised in the indigenous and colonial regimes. This led to a conflict of laws around issues of legitimacy, marriage, succession and inheritance in the period under study. Where colonial administrators thought of marriage rituals as absent from slave social relations, indigenous holders spoke of female slaves as daughters, and secondary wives. Where the British colonial legal systems had no place for the peculium of the slave, indigenous systems relied on the income-generating and maintenance-providing aspects of the peculium of their slaves. The system of slave-holding that emerged in different sectors of the domestic economy as a result of these multiple conflicts of laws, and presumptions, was thus much more like the colonial Atlantic systems than had hitherto been the case. For, in spite of differences between two slave-holding systems, the colonial state did not abolish slave-holding, as much as changed the organising principles that lent internal consistency to the older system. So while slavery was allowed to persist, the conditions of slaves and masters alike were diminished. At the same time, the colonial regime exerted a more precise control over the labours of slave-women and girls, always critical within the domestic labour economy, towards its own ends. The apotheosis of colonial legal intervention in this task was the Contagious Diseases and Cantonment Acts of the latter half of the nineteenth century.

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## *Preface*

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## *Abbreviations*

Actg	Acting.
AGG	Agent to the Governor-General.
BC	Board's Collection.
BCrJC	Bengal Criminal Judicial Consultations.
BFP	Bengal Financial Proceedings.
BJC	Bengal Judicial Consultation and Proceedings.
BMP	Bengal Medical Proceedings.
BOR	Board of Revenue.
BPC	Bengal Political Consultation and Proceedings.
<i>BPP</i>	<i>Bengal Past and Present.</i>
BPubC	Bengal Public Consultations.
BRP	Bengal Revenue Proceedings.
BS&M	Bengal Secret and Military Consultation.
Capt.	Captain.
Cantt.	Cantonment.
Ch.	Chief.
Col.	Colonel.
Collr.	Collector.
Commr.	Commissioner.
<i>CPC</i>	<i>Calendar of Persian Correspondence.</i>
Dept.	Department.
<i>EPW</i>	<i>Economic and Political Weekly.</i>
GOB	Government of Bengal.
GOBy.	Government of Bombay.
Govt.	Government.
<i>IESHR</i>	<i>Indian Economic and Social History Review.</i>
<i>IHR</i>	<i>Indian Historical Review.</i>
<i>IHQ</i>	<i>Indian Historical Quarterly.</i>
IJP	India Judicial Proceedings.
ISP	India Sanitary Proceedings.
IPP	India Political Proceedings.
<i>JAH</i>	<i>Journal of African History.</i>
<i>JASB</i>	<i>Journal of the Asiatic Society of Bengal.</i>



Judcl.	Judicial.
Magt.	Magistrate.
Misc.	Miscellaneous.
<i>MNLI</i>	<i>Murshidabad Nizamut: Letters Issued.</i>
<i>MNLR</i>	<i>Murshidabad Nizamut: Letters Received.</i>
Offg.	Officiating.
<i>PP</i>	<i>Parliamentary Papers.</i>
Poll.	Political.
Sec.	Secretary.

## *Introduction*

### *Searching for Slaves in Indian Historiography*

The historiography of slavery in India has been haunted by the long shadow of plantation economies of the Atlantic. Older trade-patterns,<sup>1</sup> and alternative uses of slaves within a complex society have left little trace in the historiography of eighteenth or nineteenth-century India. The dominant conception of the slave in Indian studies of the late twentieth century has been that of the human commodity, transported across vast distances, from whom labour is coercively exacted without a wage.<sup>2</sup> The implicit characterisation of the slave as 'property' has been widely shared, across diverse ideological grounds, beginning with English commercial law, and the abolitionist movement itself in Britain.<sup>3</sup> As a definition, it was fundamental to liberal thought which postulated that slave-labour, characterised as labour without wages, was less efficient than free (waged) labour, impeded the expansion of the market, and technological innovation, inhibited the growth of population and thus of industry and national wealth. It explained the rise of slave societies of the past as possible only because the supply of free labour was inadequate to exploit new land. The entire complex was characterised as primitive social organisation. This was, indeed, directed at the plantation systems of the Atlantic, which were then shown to be both regression and anachronism. In that some of these ideas undergirded contemporary writing, the definition of the slave stayed rooted in the plantocratic system, as the adult male, belonging to his master and deprived of the ownership of the means of production, working under extra-economic coercion.

Apart from the fact that material deprivation and physical violence came to be the definitive criteria of slavery, and waged labour the criterion of autonomy and freedom, there were problematic inferences for historians of the household and kinship. Marx and Engels, while drawing up a sequential development of the sexual division of labour in human societies, argued that

the existence of slavery side by side with monogamy, the existence of beautiful young slaves who belong to the man with all they have, from the very beginning stamped on monogamy its specific character...

The rule of the man in the family, the procreation of children who could only be

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<sup>1</sup>J.E.Harris, *The African Presence in Asia: Consequences of the East African Slave Trade*, (Evanstone, 1971); also W.G.Clarence-Smith (ed.), *The Economics of the Indian Ocean Slave Trade in the Nineteenth Century* (London, 1989); Elizabeth Savage, *The Human Commodity: Perspectives on the Trans-Saharan Slave Trade* (London, 1992).

<sup>2</sup>D. Banaji, *Slavery in British India* (Bombay, 1933); Amal K. Chattopadhyaya *Slavery in the Bengal Presidency* (London, 1977).

<sup>3</sup>Granville Sharp, *The System of Colonial Law compared with the Eternal Laws of God; and with the Indispensable Principles of the English Constitution*, (London, 1807), p.7.

his, destined to be the heirs of his wealth - these were aims of monogamy....<sup>4</sup>  
 The prior separation of monogamous wives from slave-concubines in the patriarchal family influenced historians to represent the female slave specifically as 'outside' the lineage and household, and slavery in general as the embodiment of anti-kinship, of non-belonging, of permanent alienation, while the function of constituting the legitimate lineage was preserved to wives.<sup>5</sup>

Historians of the classical societies to which the Engelsian characterisation had been applicable have refined and challenged both kinds of separations implicit in such formulations. Finley, rejecting the 'traditional tripartite division of labour into slave-serf-free' pointed to the fallacies of associating all waged work with autonomy and all unwaged work with denial of rights and claims in ancient societies.<sup>6</sup> Garlan found that slaves constituted the majority of those who did waged work in classical Greece. Thus free men were unwilling to enter into contractual labour commitments because the latter 'ran the risk of being gradually transformed into habitual obligations of total commitment'.<sup>7</sup> The further refinement of social history in classical antiquity has pointed out the historical and legal limits of assuming the subordination of all women as prototypes of the 'first' slaves.<sup>8</sup>

### **The Impact of Plantation Models in Indian Historiography.**

The multiple loads of Marxism, abolitionism and labour-economies of the Atlantic have, in turn, left an imprint on earlier Indian historians of slavery. Denials of a 'slave mode of production' notwithstanding, the imprint of the plantation persisted, as in the early work of Tanika Sarkar.<sup>9</sup> Strongly influenced by historians of slavery in America, Sarkar too concentrated on those who had been imported into India - the Coffrees (Africans), and the Hubshis (Abyssinians), ignoring the

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<sup>4</sup>F. Engels, 'Origin of the Family, Private Property and the State' in K.Marx *Selected Works* (Moscow, 1977), III, pp. 238-39.

<sup>5</sup>See an instance of this model in Robin Blackburn, 'Defining Slavery - its Special Features and Social Role' in Leonie J. Archer (ed.), *Slavery and Other Forms of Unfree Labour* (New York, 1988), pp. 262-279. For a philosophical re-structuring of the priority of sexual subordination before the social contract, see Carole Pateman, *The Sexual Contract* (London, 1988).

<sup>6</sup>M. I. Finley, *Ancient Slavery and Modern Ideology* (London, 1980), p.70.

<sup>7</sup>Yvon Garlan, *Slavery in Ancient Greece* trans. Janet Lloyd, (Ithaca, 1982), p. 93.

<sup>8</sup>Sarah B. Pomeroy, *Goddesses, Whores, Wives, & Slaves: Women in Classical Antiquity* (London, 1975); Beryl Rawson (ed.), *The Family in Ancient Rome: New Perspectives* (London, 1986); Susan Treggiari, *Roman Marriage* (Oxford, 1993); Jane F.Gardner, *Women in Roman Law and Society* (London, 1986).

<sup>9</sup>Tanika Sarkar, 'Bondage in the Colonial Context' in Utsa Patnaik and Manjari Dingwaney (eds), *Chains of Servitude* (Bombay, 1975), pp. 97-126.

simultaneous patterns of internal slave-dealing. Further, the unarticulated disjunction between household (made up of wives and children) and labour performed by slaves meant that such work could not interrogate the information about slave sociality provided by the official English discussion nor knit it into the larger social history of the region. An illustration of this is Sarkar's discussion of 'slave'- marriages without any discussion about their relation to 'non-slave' marriages, or what indeed counted as 'marriage' in the first place, the legal and social consequences of such counting. Slavery remained a phenomenon discrete and autonomous, not inextricably linked with the very fabric of social histories of caste, community, or lineage.

A set of assumptions have conditioned the historical assessment of slavery in India: one is the coerced labour-cum-deprivation complex, and the second is the reification of boundaries of kinship and community. Together they have had a peculiar impact on the ways in which histories of gender, family and labour have been written so far. It is in exploring these influences that the condition and location of the male and female slave in the plantation appears as the unacknowledged and subliminal text. As succinctly stated by Hastings, to explain the judicial regulation of 1772, which allowed for the enslavement to the state of the families of convicted criminals,

The Ideas of Slavery, borrowed from our American Colonies, will make every Modification of it appear in the Eyes of our own Countrymen in England a horrible Evil: But it is far otherwise in this country; here slaves are treated as the Children of the Families to which they belong, and often acquire a much happier State by their Slavery than they could have hoped for by the Enjoyment of Liberty....<sup>10</sup>

The overwhelming presence of the plantation, against which the definition of slavery occurred, the glorification of paternalism, and a language of familialism was equally characteristic of the reports, and enquiries that were set afoot in the nineteenth century. Even in the formulation of the questionnaire that was circulated by the Law Commissioners in 1834, the imprint of the Atlantic economies was evident. One obvious feature of the questionnaire was the neat division of slavery into two types - domestic and agrestic. This bought into the Atlantic slaveowners' own conceptual framework. The term 'domestic slavery' was coined by planters and their apologists, who implied that, by placing the slave and the master in close proximity, conditions of work and life had become favourable to the slave. Such a portrayal echoed the idealised view of the 'family', and by reinforcing the image of the plantation as a 'big happy family' provided multiple

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<sup>10</sup>Extract of the Proceedings of the Committee at Kishennagur, 28 June, 1772, Orme Ms., Bengal Various, 1700, p.97. All unpublished records, unless otherwise specified, are from the Oriental and India Office Collections, London.

layers of moral defenses for the slaveholder in both America and in England.<sup>11</sup>

Furthermore, the issue of labour was divided between the household and the field in terms like the following: 'in what they are employed and how they are worked? What species of produce are they employed in raising? Do they work in gangs, under a driver? for how many hours in the day? ...Is the lash employed, and to both sexes?'<sup>12</sup> The discreteness of slavery, premised on a biracial division of labour, was suggested by identifying 'their' religion, 'habits or morals' or marriage in just as distinct terms as they had in the plantation complex.

The collection of answers that have been the staple of all Indian studies of slavery, are equally shot through with these contradictions. For instance, in evidence provided by various local judges and magistrates around 'treatment' of slaves (the issue itself is posed in terms of the plantation), it is common to find

the slaves are not so systematically worked up, nor so cruelly whipped and punished as in the American slave-holding districts. The rising and resistance of slaves against their owners have occurred in America and elsewhere; not so in India.<sup>13</sup>

It is this omnipresence of the Atlantic plantation in the conceptual world of early British colonialism that permeates Indian slave-studies, even when the historian self-consciously opposes the colonial 'voice' of the records. It is now accepted that agrarian tenures and conditions in eighteenth-century India were far more complex than in the plantation systems. Yet, the intimate connection between the agrarian location of labour, procured through various extra-economic techniques, remains intact in the most sophisticated work in Indian slavery studies so far.<sup>14</sup> More sharply critical of the representation of labour undertaken by colonial records, lucid in the connection between Orientalism, the growth of law and slavery, Gyan Prakash's treatment of the 'long-term ties' between the *kamias* (bonded agricultural labourers) and their *maliks* (masters) in South Bihar threatens to reify the paternalism that men like Hastings had seen as distinctive of

<sup>11</sup>Margaret A. Burnham, 'An Impossible Marriage: Slave Law and Family Law', *Law and Inequality*, 5, 1987, pp. 187-225.

<sup>12</sup>Questions on Slavery in the East Indies, Circulated by Commissioners for the Affairs of India, 15 March 1834, Slavery in India: Correspondence, *Parliamentary Papers* (hereafter *PP*), 1834, 44, no. 128, q.6, p.1.

<sup>13</sup>Extracts of Notes and Observations on Slavery, as existing in Bengal, Behar, and Benares, and the Ceded and Conquered Provinces by Mr. G. Myers, in Report from Indian Law Commissioners relating to Slavery in the East Indies, (*PP*) 1841, 28, no. 262, Appendix II, p. 281.

<sup>14</sup>Gyan Prakash, *Bonded Histories: Genealogies of Labour Servitude in Colonial India* (Cambridge, 1990); *idem*, 'Terms of Servitude: The Colonial Discourse on Slavery and Bondage in India', in Martin A. Klein (ed.), *Breaking the Chains; Slavery, Bondage, and Emancipation in Modern Africa and Asia* (Madison, 1993), pp. 131-49.

Indian slavery.<sup>15</sup> While Prakash is more open to the insights of other scholars of slave-societies, this does not motivate him sufficiently to re-define slavery as it existed in the nineteenth century itself. What we do get is the continuation of nineteenth-century European and liberal meanings - of freedom, of kinship, household, and labour.

Such a perception becomes critical when discussing the centrality of biological and social reproduction to the establishment of *kamiauti* (dependence). Typically, marriage is the occasion for reciting the oral traditions about Bhuinya origin, giving the biological product of this union a history (ancestors) and social identity (Bhuinya). Simultaneously, marriage itself is occasioned by the *maliks'* insistence upon the 'proper time' and the giving of an advance as an act of disinterested reciprocity. Prakash argues that this serves the labour needs of the landlords by reproducing both labour and dependence, and it subordinates the Kamia woman both to her spouse and the *malik* (reproducing the 'patriarchal' family). In turn, it bleaches the productive labour of Kamia women out of the legal bonds executed between men (*kamia* and *malik*) and drives out their reproductive labour from the oral traditions and Bhuinya genealogies. Given the absence of the 'father' from the origin-stories and the subsequent retrieval of paternity in the realm of ancestor-spirits, who are overwhelmingly male, Prakash is too quick to replicate the Kamia 'family' as a 'patriarchal' one. The *malik's* claims upon the labour and persons of the *kamia* women, when read alongside the kinship terms of the Bhuinya songs (pp.51-52), suggest that genealogy (the core of the 'patriarchal family') is constituted by the *malik's* power, rather than by the *kamia* male's procreative sexuality. The issue that has perplexed students of the plantation economies<sup>16</sup> - namely, the formation of slave-families - has conversely, been too early resolved by Prakash. Does the shared paternalism of the *kamia* male and *malik* in the matter of the marriage-payments, in fact, represent a tiny victory in acquiring the privilege of having a 'family' at all? Does the male *kamia* have the same access to non-*kamia* females as the male *malik* does? Does polygyny and hypergyny affect male and female *kamias* differently, as well as male *malik* and *kamia* differently? Indeed, what could paternalism and slave-sociality have been constituted of, if, as suggested by the origin-stories, kinship ties were tense, fragile, even malevolent?

Prakash's work also throws up methodological issues. Though it may not be his intention, his work suggests that the *kamias* of the 1840s were the same group that he studied in the 1980s.

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<sup>15</sup>For a fuller discussion, see Peter Robb (ed.), *Dalit Movements and the Meanings of Labour in India* (Delhi, 1993), Introduction, esp. pp. 26-43.

<sup>16</sup>See Herbert G. Gutman, *The Black Family in Slavery and Freedom, 1750-1925* (New York, 1976); Verena Stolcke, 'The Slavery Period and its Influence on Household Structure and the Family: Jamaica, Cuba and Brazil' in Elza Berquo and Peter Xenos (eds), *Family Systems and Cultural Change* (Oxford, 1992), pp. 125-43; B.W. Higman, *Slave Population and Economy in Jamaica, 1807-1834*, (Cambridge, 1976); Barbara Bush, *Slave Women in Caribbean Society, 1650-1838* (Indiana, 1990).

The changes, if any, are in the realm of the market in grain and land, and in discursive practices of colonial law. Has Prakash's ethnology not imbibed the very premises he set out to deconstruct - the Orientalist notion of stable, unchanging Indian societies? Why is there an erasure of the term 'slavery' from his own discussion, if not as a mirror of the colonialism that he critiques?

### **Elliding Paradigms: Problems of Identity and Slavery.**

Frederick Cooper, in a review article, pointed out the ways in which colonialists in Africa and America refused to call a slave a slave, substituting words like serf, captive and dependent, thus avoiding having to confront slavery.<sup>17</sup> Something very akin to this is applicable to the fashioning of Indian historiography. The historiographical refusal to use the term slavery, substituting terms like servitude, bondage, paternalism, applied to groups like 'castes' and 'families' only echoes official colonial semantic strategies, and furthers a set of assumptions regarding both labour and social organisation. These are (a) that systems of social organisation like caste, race, community, family and labour were all closed, finite forms in the late eighteenth and nineteenth centuries, (b) that there was only one kind of slavery, identified with one specific political economy, as though different kinds of slavery did not undergo permutations over historical time and (c) that to study slavery is to study a social dyad, master-slave, rather than a complex interweaving of different aspects of society and politics as they underwent transition. This ideological complex is manifest, in diverse ways, in the work of scholars like Dharma Kumar, Lionel Caplan and G. Arunima.

Kumar has recently stated that 'the term slavery does not accurately describe many forms of traditional bondage in India', given that in pre-colonial India there was a great range of 'unfree status, from chattel slavery to debt-peonage'.<sup>18</sup> Using attributes such as restrictions on 'personal freedom', 'forced labor' and 'ownership' as criteria of status, Kumar found that these were also applicable to what in her terms was India's 'own peculiar institution, the caste system'. Since Kumar admits that we have no historical studies of caste in the seventeenth or eighteenth centuries, how can criteria of individual freedom or unfreedom be assessed in pre-colonial or colonial 'caste' structures? Besides, many British officials in the nineteenth century used the absence of unfreedom/coercion to characterise the purchased as 'free'. To cite one such, the 'itinerant Natch Girls (from Guzeratte and Marwar) who are really slaves having been purchased when very young, but their life (however immoral) is one of perfect free will'.<sup>19</sup>

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<sup>17</sup>Frederick Cooper, 'The Problem of Slavery in African Studies', *Journal of African History*, (henceforth *JAH*), 20, 1, 1979, pp. 103-25.

<sup>18</sup>Dharma Kumar, 'Colonialism, Bondage and Caste in British India' in Klein (ed.), *Breaking the Chains*, pp. 112-30; also see *idem*, *Land and Caste in South India* (Cambridge, 1965).

<sup>19</sup>Resident, Cutch, H.Pottinger, to Sec. to GBy., 13 Oct. 1832, BPC, P/126/59, 24 Dec. 1832, no. 26.

For similar reasons, it may be necessary to remind ourselves that the attributes of caste - its heritability and stability, for instance - systematised by early colonial ethnographers and scholar-officials, were based upon ideas of race and labour that came from different locations. A significant illustration of this derivation is the work of H.T. Colebrooke. Having arrived in India in 1782, Colebrooke entertained ambitions of becoming a planter on the Atlantic model from early in his career. Writing to his father in 1793, from Nattore, he was very critical of the obstructions placed in the way of the Company officials acquiring lands in India;

If England will receive our sugar, and encourage the planters we could furnish it cheaper than the West India Islands,... at least we could now undersell the West India planters in their own islands, and, in a few years, could increase the culture to any given quantity.<sup>20</sup>

This eventually led him into investing 'a considerable sum in the purchase of land at the Cape colony' in 1815,<sup>21</sup> where he appeared to have witnessed slave-sales without too many qualms, wishing only that the children of 'female slaves ought to be... subject only to an apprenticeship, sufficient to remunerate amply the owners of the female slave, for bringing up her children, until they shall become of an age to render profitable service.'<sup>22</sup>

In the light of Colebrooke's investment in the plantocratic ideal, his schematic arrangement of caste-society in India tallied with the preoccupation with male labour and its stabilisation. In what was supposed to be a preface to the *Digest of Hindu Law*, Colebrooke's admiration of the purportedly neat division of Indian society into 'slaves' and 'freemen' by the 'ancients' was re-aligned along a grid of occupational ranking that he interpreted as caste. Thus, he argued, it was only meet that the 'ancient legislators' had ordained the following:

Menial offices and mechanical labour were, in ancient times, executed by slaves, and deemed unworthy of freemen. In other countries, besides India, the descendants of enfranchised slaves have not been held on a par with the citizens ... it cannot appear strange that the class of *sudra* comprehended all servants and mechanics, whether emancipated or franchised, or descendants of emancipated persons. The freemen were denominated the twice-born ... included, as was natural, the priest, the soldier, the merchant, and the husbandman... the Brahmana, Cshatriya and Vaishya; the last comprehending merchants and husbandmen indiscriminately....<sup>23</sup>

The persistence of the Atlantic notion of slavery as a discrete institution and a fixed status

<sup>20</sup>T. E. Colebrooke, *The Life of H.T.Colebrooke* (London, 1873), p. 57.

<sup>21</sup>Ibid., p. 316.

<sup>22</sup>Ibid., p. 334.

<sup>23</sup>'Heads of a Dissertation to be prefixed by way of Introduction to the Digest of Hindu Law, Civil and Criminal' in Colebrooke, *Life*, pp. 98-99.



(as Kopytoff puts it, 'an all-or-none thing, marked by precise and unfailing indicators'<sup>24</sup>) could have been possible only in the context of a society where slaves came from a distinct ethnic-racial background. This was the context within which Colebrooke approvingly referred to the exclusion of descendants of slaves from 'citizenship', regardless of manumission.<sup>25</sup> Therefore, in categorising 'menial and mechanical' labour as specific to loss of 'citizenship', Colebrooke appears to have transferred the legal and social context of the Atlantic economies on to the Indian past. Like him, most early Company officials struggling to comprehend Indian social organisation in terms that were familiar to them, represented occupational groups, kin-groups and the like in terms of the hierarchies of plantocratic society. Both attributes of 'inheritable' race and degrees of disabilities were worked into the notion of 'caste'.<sup>26</sup>

Traces of this remaking of caste, critical for the fashioning of early anthropology,<sup>27</sup> as well as of Anglo-Indian law,<sup>28</sup> reappear in perspectives that posit a fixity of ritual status, and its

<sup>24</sup>Igor Kopytoff, 'The Cultural Context of African Abolition' in Richard Roberts and Suzanne Miers (eds), *The End of Slavery in Africa* (Madison, 1988), pp. 485-503.

<sup>25</sup>We should not eliminate the possibility of the influence of Roman law on Colebrooke. However, the state of English eighteenth-century knowledge of Roman law is beyond the scope of this thesis. Historians of the present day insist that in Roman law, slaves manumitted according to one of the proper ways became citizens. See a comparative study of the two legal systems in Alan Watson, *Slave Law in the Americas*, (London, 1989).

<sup>26</sup>See Gita Dharampal-Frick, 'Not-So-Other Images of the Other: Descriptions of Indian Social Organisation in Early Modern German Reports', (AAS Annual Meeting, Washington D.C., April 1995). She argues that in the early decades of the sixteenth century the word 'casta' embraced several meanings, only one of which implied the 'purity of blood'; besides, the terms more commonly found in the German reports were those employed in the European context like 'orders' 'grades' 'sections', which reveal a perception of India as 'closer to Europe' and not as distinguished from it. Entirely absent from the German reports are those features that characterise the English writing of the eighteenth century - the notion of a linear hierarchy and the unitariness of the system.

<sup>27</sup>The influence of Colebrooke's writing for R. Montgomery Martin's edition of Buchanan's surveys, *The History, Topography and Antiquities of Eastern India* (London, 1835), for J. Wise, *Notes on the Races, Castes and Trades of Eastern Bengal* (London, 1883) and finally Jogendranath Bhattacharya, *An Exposition of the Origins of the Hindu Caste System and The Bearing of the Sects Towards Each Other and Towards Other Religious Systems* (Calcutta, 1896, reprint Calcutta, 1973) is worth a separate investigation by itself.

<sup>28</sup>See H. T. Colebrooke, *Remarks on the Husbandry and Commerce of Bengal*, written in 1795, before he undertook the translation and arrangement of the *Digest*. In this phase, the emphasis was on the benevolence, and symmetry, of the system. By 1812, after the Act of Parliament of 1807, and the passing of Regulation 10 of 1811, Colebrooke's emphasis fell on the 'lawfulness' of the slave-master relationship. Where earlier he had said little about the regulations of 1772, or even referred to the 'laws' of slavery, he now proceeded to show three different grounds for the non-implementation of Parliamentary statute. The first was that there were clear and fixed laws, 'Hindoo and Mahomedan', of slavery determining the nature of proprietorship and treatment which, secondly, had been promised by Parliament to the people in India. The third set referred to customs of the 'people' (meaning the owners): their 'accustomed mode of treating their slaves', the importance of 'religious festivals and celebrations' which required exhibition of dances, the absence of any system of poor relief which made disposal of children by parents an act necessary 'for

separation from political-jural status. Following Dumont, as Lionel Caplan's work on slavery in Nepal and India shows, the problem of separating 'slavery' from 'lower caste' status in India becomes well-nigh insurmountable.<sup>29</sup> Employing Dumont's dichotomy between power (political hierarchy) and status (ritual hierarchy, marked primarily by purity-pollution notions), Caplan argued that 'domestic' slavery in South Asia was premised upon this separation. The ritual purity of slave-owners and the ritual status of slaves together determined the site of the slaves' employment (the household or the field). However, by arbitrarily characterising slaves as occupying the lowest rank in the legal-political hierarchy (i.e., of power), Caplan proved that the dissociation of power and status enabled slaves to exist within 'free' society in Nepal. But, for India, the focus on 'agrestic' labour led him to argue for a correspondence between low ritual status and political powerlessness for slaves.

The key issue in his investigation appears to be the stability of ritual rank: despite enslavement, the Brahmin priests and cooks in the houses of the Rajputs in Nepal remained Brahmins. The contrast postulated by Caplan between Nepal and India is partly an artefact of his largely secondary sources. The historical evidence for India also suggests that the ritually 'higher' *jatis* may equally well have comprised a substantial section of slaves. However, contrary to Caplan's assertion that 'ritual rank was not fundamentally affected by whether the individual was a slave or not', the evidence indicates the very instability of *jati*-identity of a slave. For instance, two girls were reported from Sylhet to 'have been disposed off [sic] under feigned names to a Brahmin in the Tipperah District as Brahmini Girls'<sup>30</sup> while a woman identified as an 'Ahirun' was sold 'for Rupees 60 as a Rajpootin girl' in Goruckpore in 1871.<sup>31</sup> Another narrative of the Rajas of Nadia reported that 'the rajas purchased *sudra* boys and appointed them as their personal attendants; regardless of their *jati* they were proclaimed *kayastha*. Though these boys were initially degraded among the *kayastha sreni*, some of them have now become equal with the rest'.<sup>32</sup> While such evidence throws the immutability of '*jati*-identity' into question, it also indicates that the ritual status of the person bought, or born of a slave, was dependent on political and other hierarchies. It also leads to the implication that within each ritual rank, there were slave-members,

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the saving of their children's lives by interesting in their preservation persons able to provide nourishment for them'.

<sup>29</sup>Lionel Caplan, 'Power and Status in South Asian Slavery' in James L. Watson (ed.), *Asian and African Systems of Slavery* (Oxford, 1980), pp. 169-94.

<sup>30</sup>Extract from Commr.'s Report, Judcl. Letter to Court of Directors, 27 June 1837, E/4/158.

<sup>31</sup>Crime Report, Patna Division, 1871, Appendix A, BJC, P/433/15, Oct. 1871, no. 22.

<sup>32</sup>Karttikeya Chandra Ray, *Kshitish Vamsavali Charita*, (Calcutta, 1932), pp. 29-30.

or slave-born members.

A similar point is made by an inscription of the eighteenth century, found in Central India.<sup>33</sup> In this inscription, authorised by one claimant to the chiefship of Orchha against the reigning chief, a descendant of Udet Singh, the latter is described as having assimilated the children of his slave-women (*laundin ke jaaida*) into his kin-group, and raised them to the chiefship. (In short, the inscription tries to ascribe slave-status to the present chief). Then it proclaims that these people should not be assimilated into the Bundela *jati* from whose hands water may be drunk, nor should they be admitted into the ranks of those with whom one eats in assembly. Those who do admit these slave-born (*varanasankar, naichi panti*) to the ranks of their own *jati*, by eating with them and by marrying them, are in turn, severely cursed (they and their ancestors are *gandu*) with all manner of degradation. As in the case of the Nadia rajas, this inscription, in trying to demean current practice, emphasises the nature of a slave's *jati*-identity as derived from interlocking political and social powers of their holders. From the most stringent administration by ritual of the eighteenth century - that of the Peshwas - there is an order to the whole *got* of the *shimpis* (workers in cloth) to admit the second husband of a widow, Malhar, the slave (*ghulam*) of Raghoji Kodhilkar of Saswad, into the *jati*. The grounds offered for this order are also instructive, since it says that it has been the practice in the *jati* to admit slaves into its rank (*tunche yatimadhye sudamat ghulam jatit ghetat, yaise chaalat aale aahe*).<sup>34</sup> The issue, it would appear was not the performance of labour corresponding with *jati*-status, but the belonging within a corporate group, of the slave and the slave-born. It would also suggest, contrary to the assumptions of closure made by the ethno-historians, that while the category *ghulam* or *laundi* was stable, ritual status or identity was fluid, at least in the late eighteenth century.<sup>35</sup>

Furthermore, the association of slave-labour with lower 'caste' status allows social and legal historians to read texts of Hindu law as though the latter were not conditioned by history, but above and outside it. This has been of some significance in assessing the role of the Brahmin pundits in the eighteenth century and the subsequent social and administrative endeavours coded

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<sup>33</sup>Hiralal, 'Sagar Ka Bundeli Shilalekh', *Nagaripracharini Patrika*, 8, samvat 1984/1926 C.E., pp. 395-400.

<sup>34</sup>From the daily diary of the Peshwa, second half of the eighteenth century, cited in *Itihasa-sangraha*, 7, 1-3, 1915, p. 274.

<sup>35</sup>These reservations also apply to other excellent work like Sharmila Rege, 'The Hegemonic Appropriation of Sexuality: The Case of the *Lavani* Performers of Maharashtra', *Contributions to Indian Sociology* (n.s.) 29, 1&2, 1995, pp. 23-38, and T.P.Vijaya, 'Aspects of Slavery in Coorg in the Nineteenth Century', *Indica*, 29, 1992, pp. 107-22. Both scholars appear to have worked with the notion of the fixed nature of caste-ranking and its correspondence with enslavement by the state. For a view of negotiated 'belonging' within a caste, as an alternative to enslavement, see Sumit Guha, 'An Indian Penal Regime: Maharashtra in the Eighteenth Century', *Past & Present*, 147, 1995, pp. 101-126.

as 'Brahminisation' or 'Sanskritisation'. Few scholars notice that the verses condensed and translated by the pundits for Sir William Jones and H.T. Colebrooke, and their own glosses, do not tally with the way the English scholar-officials tried to align menial labour with slavery. For instance, in the oft-cited *Digest of Hindu Law*, the verse from Vrihaspati and Narada showed that the distinction between slave and non-slave was not between one receiving nothing for his labour and one receiving wages, but between one who promises obedience and one who does not. The whole group of persons who are 'bound to obedience' are in turn distinguished by skill. Thus Vrihaspati's verse on 'science, human knowledge, love or pay' was interpreted by Jagannath Tarkapanchanan to include within science 'knowledge of the Vedas and the like...skill in arts and the like'.<sup>36</sup> The inference clearly is that those who knew the Veda (i.e. Brahmins) could owe obedience just as much as those who received wealth. In short, there was no necessary correspondence between menial labour, ritual impurity, and subordination.

Nevertheless, so authoritative had Colebrooke's writings become<sup>37</sup> that the answers of various officials in 1834-41 also portrayed slave-status in terms of caste, as though these were interchangeable terms. It is unfortunate that scholars have relied so heavily on the *Parliamentary Papers* for their information on slavery without taking this historical ellision into account. This is true of Arunima's discussion of the impact of the abolition of slavery on the Malabar *taravad*. She states that 'a significant part of manual labour and cultivation work was carried on by the slave population, a majority of whom were constituted by the Cheruma and the Pulaya castes'.<sup>38</sup> According to her, in place of the Cheruma's inclusion in the 'community of pollution' affecting their higher-caste masters, the mid-nineteenth century saw the erosion of internal differentiation within the Cheruma, who were then considered to be the slave caste. This militates against treating slavery as coeval with ritual pollution, (and the latter as a segregating principle between castes). However, the difficulty with Arunima arises from her finding that women of the higher castes, the Nambudiri and Nayar, could also be sold into slavery or be kidnapped by lower caste-men, with whom they were then forced to live as Pulayas and Cherumas. Would this institutionalised kidnap or sale of Nayar women have modified the contours of matrilineality of the Nayar *taravad* even before the impact of colonial legislation? Perhaps due to the way slavery itself is conceptualised

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<sup>36</sup>H. T. Colebrooke, *A Digest of Hindu Law on Contracts and Succession; with a commentary by Jagannath Tercapanchana: translated from the original Sanscrit by H.T.Colebrooke* (Calcutta, 1797, this ed. 1802), II, p. 174.

<sup>37</sup>At least one major official text reproduced verbatim Colebrooke's writings of 1811-12 in its discussion of slavery in India. See J. H. Harington, *Analysis of the Laws and Regulations of the East India Company in Bengal* (Calcutta, 1817), III, pp. 743-51 and 762-3.

<sup>38</sup>G. Arunima, 'Colonialism and the Transformation of Matriliney in Malabar, 1850-1940', Ph.D. Dissertation, Cambridge University, 1992.

as a form of labour at the periphery of the *taravad*, it is necessary to draw out some of the implications of Arunima's argument in order to clarify the contradictions.

Where descent and filiation is structured through sisters and daughters, the Nayar women's re-allocation to the Pulaya and Cheruma *jatis* would presumably produce ritually mixed-status children, who would inherit from their Nayar maternal uncles. Unless, with such kidnap, the rights of the woman in her natal *taravad* were also extinguished. If not, the ritual purity of the Nayar *taravad* would be, by this logic, precarious, and in need of reconstitution in each generation, given the existence of the ritually mixed-status inheritors. This kind of strategy has been argued to exist among males in matrilineal societies trying to retain wealth in their own control, and logically should have characterised the Nayar males' claims upon the Pulaya/Cheruma women. However, this is not the case Arunima argues. In fact, nothing is said about the female Cheruma/Pulaya slaves at all. For Arunima, the critical task is to reinterpret the strategy of household-formation that was characterised as concubinage in the twentieth century by a reformist movement towards a feminist critique of colonial law and patriliney.

Laudable as the project is, there are pitfalls in using concepts (like unilineality) fashioned by anthropologists in the course of field-work done in societies subject to both internal and external slave-trade, especially in Africa, without taking this critical history into consideration.<sup>39</sup> Historians of the slave-societies of the Atlantic have noted, for instance, that the need to reproduce slave-labour on the plantations sometimes resulted in matrifocality: as Gutman puts it, reproducing slavery required 'only the simple biological dyad "mother and child". The social dyads "husband and wife" and "father and child" were not essential... Slave women mostly counted in the calculations of their owners as mothers, and slave men counted mostly as laborers'.<sup>40</sup> On the other hand, matrilineality in African societies may have been the consequence of the skewed sex-ratio of the slave-trade from Africa,<sup>41</sup> which, in turn, was related to the retention of greater numbers of slave women within Africa. In other words, we need a pre-history of lineality, which knits the history of slave-trading and slave-use within the region, before we can understand the significance of the transformation that occurred under colonial auspices. We simultaneously need to re-examine our assumptions about terms like family, household, descent-and-status inheritance, kinship and, above all, to recognise the different forms and nomenclatures through which slavery

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<sup>39</sup>It is significant that Cohn, who warned South Asian historians against borrowing the anthropological models derived in African contexts, made no mention of slaving at all in his 'African Models and Indian Histories', in Bernard S. Cohn, *An Anthropologist Among the Historians and Other Essays* (Delhi, 1990).

<sup>40</sup>Gutman, *The Black Family*, p.79.

<sup>41</sup>See Martin A. Klein, 'Women in Slavery in the Western Sudan' and Jean Pierre O. de Sardan, 'The Songhay-Zarma Female Slaves: relations of Production and Ideological Status' in Clare C. Robertson and M.A.Klein (eds), *Women and Slavery in Africa* (Madison, 1983), pp.67-92 and 130-43.

might be mutated over time.

### Reassessing Labour

The problems of scholarship appear to have arisen from the nature of the records consulted, the inability to interrogate the characteristics of formations like caste, family, and, above all, by a pre-occupation with the location of a particular kind of productive labour. What kind of productive labour systems were slave-women and eunuchs part of? The issue, so far, has been framed as one of the general reproductive labours of women. Historians of African systems have argued that in patrilineal societies, men could acquire a slave concubine and build up their lineages with the free offspring of these unions. Yet others have urged that in matrilineal societies, the advantages were even greater, since men could achieve direct control over their offspring with slave concubines, instead of relying on the uncertain loyalty of their sisters' children. However, if one takes into account the rich yield of Chinese history,<sup>42</sup> it appears that both men and women can, and did, contribute to the production of subordinate lineages in different ways. While there is some evidence in the Indian records that higher prices of female slaves were explained by some indigenous informants in relation to the reproductive ability of the female, this does not exhaust the discussion of either price-differentials, or of female slaves in the polity.<sup>43</sup>

Derived from the reproductive ability of female slaves were explanations stressing the ease of women's assimilation and benefits to men of acquiring slave wives or concubines. While assimilation with the host society or lineage or household may have been an important demand put upon slaves, it is not being female as being infant that is the key to assimilative strategies everywhere. As one colonial official explained the age-profile of the internal market in transfers of young people in mid-nineteenth century India, 'the demand for children is greater than the demand for grown up people, for they recollect not after some time their parents and place of nativity and are more obedient than the grown up who are generally on the look-out for one early

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<sup>42</sup>Maria Jaschok, *Concubines and Bondservants: the Social History of a Chinese Custom* (London, 1988), M. Jaschok and S. Miers (eds), *Women and Chinese Patriarchy: Submission, Servitude and Escape* (Hong Kong, 1994).

<sup>43</sup>Evidence of Tek Loll, Mooktear in Sadr Diwani Adalat, 28 Dec. 1838, in *PP*, 1841, Appendix I, p. 225. This witness said that the price of a young male was about a third less than the price of a young female, which varied between 50 and 125 Rupees. The fact that "the girl may have children which will belong to her owner" only explains a gender differential, it does not explain differentials within the same gender. In other words which female slave sells for 50 Rupees and which for 125 Rupees is not explicable in reproductive terms alone. Nor can explanations resting on reproductive ability explain the fact that the highest prices in the slave-market were reserved for eunuchs/castrated slaves. See evidence of Aga Kurbelai Mahomed, *ibid.*, p. 240.

opportunity of running away'.<sup>44</sup>

At issue is not so much the contribution of female slaves to a socio-political regime but the exclusiveness of the processes of production and reproduction themselves. Instead of at least two discrete processes - production and reproduction - labour of multiple kinds can be seen to weld together, and maintain, the household and the state, labour which is simultaneously biological (requiring the use of embodied energies and substances), ideological and emotive, social and political. Thus child-bearing, nursing or rearing tasks, and providing sexual service, are undeniably acts of labour, as are cooking, cultivating, sewing, managing a business or an empire. For male slaves, too, the divide of domestic and agrestic does not suffice: where does the work of slave-*lascars* (workers on ships) and slave-*sipahis* (soldiers) fit?

However, whether or not these labours are to be described as 'menial' is in turn dependent on the values placed by contemporaries on each, and not according to a pre-ordained 'exchange value' of the historian's imagination. To assess the contemporary value put upon specific kinds of labour, we need to employ a continuum between skilled and unskilled labours. In other words, the labour performed after years of training should be distinguished from that which does not require such investment by masters or their delegates and surrogates. This refinement is suggested by the records of the pre-colonial regimes. For example, in Cabral's account of the seige of Hughli by the Mughal forces in 1632, in the course of which the Portuguese surrendered ninety of their slaves,

The Moor only laughed when he saw their small number. People of that kind, he said, were not so scarce...Let them send him their black women, their clever cooks, their dancing girls, their confectioners, their seamstresses, and so on. Such were in special demand.<sup>45</sup>

Some of these skilled slave-cooks were working in the garden-house of Asaf Khan where the Emperor Shah Jahan was given a banquet. Manrique reported that the Emperor was agreeably surprised at the delicate 'pastries, cakes, and other sweet confections made by some slaves who had been with the Portuguese at Ugulim'.<sup>46</sup> Similarly, for other slaves. Ishwardas mentions Murad Baksh's eunuch, Khwaja Shahbaz Khan, entitled Sayid Rustam Khan, who was despatched with a force of 6000 horsemen for the conquest of the well-fortified Surat.<sup>47</sup> The skills mentioned are not only diplomatic but also military. The association of slaves with warriorhood, as well as

<sup>44</sup>Resident, Gwalior to Sec.to the Gov.- Gen. at Shimla, 30 July 1832, BC F/4/1467/57728.

<sup>45</sup>Letter of Father John Cabral in *Travels of Fray Sebastien Manrique*, trans C.E. Luard, (Oxford, 1927), II, Appendix, p. 405. Emphasis original.

<sup>46</sup>*Ibid.*, p. 218.

<sup>47</sup>Ishwardas Nagar, *Futuh-i-Alamgiri*, trans. and ed. Tasneem Ahmad, (Delhi, 1978), pp. 8-9.

writing and reading, is clear from the accounts. Shahjahan wrote to Aurungzeb from his prison asking for an eunuch to be posted at his disposal 'for writing his letters'.<sup>48</sup> Another eunuch, Bakhtawar Khan, associated with the authorship of *Mirat-i-Alam*, according to the preface of the work, was 'fond of historical studies'.<sup>49</sup> Thus it is not at all surprising to find that the eunuch named Yaqut, titled Mahram Khan, held the post of tutor to a son of Aurungzeb, Kam Baksh.<sup>50</sup>

The kind of work a slave did was ultimately related to the nature of her/his master's wealth and social rank. The master's wealth determined the number of slaves he or she held, and the greater degree of specialisation among the slaves. Where a master was a tailor whether his slave was also a skilled worker, or not, depended upon the numbers of slaves held. The final work of the slave was in the symbolic sphere, where s/he lived as the advertisement of the master's wealth-creating abilities, as well as maintained the master's competitive social profile vis-a-vis others. This was particularised on ceremonial or ritual occasions. Manrique's description of Asaf Khan's slaves, deputed to wait upon the Emperor, touched upon this symbolic, and embodied, work simultaneously performed by slaves. The washing of the Emperor's hands was done by four girls, whose implements, ceremony, and 'gracefulness, gallant bearing and beauty' were far more valuable than the twelve others - 'less striking than the first bevy' - who presented the hand-washing vessel to the princes 'with rather less ceremony than the first company had used towards the Emperor'. During the meal itself, four of the 'principal eunuchs' served the emperor alone, passing on the dishes brought by other eunuchs to 'two most lovely damsels who knelt on each side of the Emperor'.<sup>51</sup> Clearly, the social status of the person the slaves were deputed by their masters to wait upon corresponded to a code of deference among masters. An equal and a superior was waited upon by a master's valued slave following a more elaborate ceremonial, an inferior by the less skilled or valued slave.

Some of the codes of this timocratic system were witnessed by later English administrators who did not always understand the honour that was bestowed thus. This is most visible in the descriptions of the dancing girls who were a regular feature of the courts of the eighteenth and nineteenth century, and of the public celebrations of the notables of Calcutta in the nineteenth century. What made the performance, or their attendance upon a guest, a symbol of honour? It lay in the display of skills acquired by slaves as a direct investment by masters and mistresses both

<sup>48</sup>S. Moinul Haq, *Khafi Khan's History of Alamgir* (Karachi, 1975), p. 106.

<sup>49</sup>H. M. Elliott, *The History of India as Told by Its Own Historians* (ed. J. Dowson, London, 1877), VII, p. 150.

<sup>50</sup>S. Moinul Haq, *Khafi Khan's History*, pp. 432-33.

<sup>51</sup>*Travels of Sebastien Manrique*, pp.217-18.



in maintaining and in training them. Some of this training was rigorous, going by a document of the eighteenth century, in which an official in charge of the *natakshala* of the Peshwas complained against the man who was to train the slave-girls in dance. Instead of training them for 'five to seven *ghatikas*' in the morning and for the same period in the evening as was required of him, this trainer only did '*ton-ton* for one *ghatika*'.<sup>52</sup> This letter of complaint however absolved the tutor for music and literary composition of such abrogation of duty: accordingly, the girls received their required hours of training in these departments. The existence of skilled slave-poets and slave-composers is again highlighted by a document of the Krishengarh state. Discussing certain stanzas attributed to 'Rasik Bihari' in the work of the Bhasha poet, Nagari Das, this document states clearly 'The Kavitas and padas bearing the poetic name Rasik Bihari... are the compositions of his *khavasa pasvan yani upastri*'.<sup>53</sup>

Differentials of skill characterised the continuum among male slaves too, allowing for the climbing of infant slaves from the rungs of the unskilled to those of the highly skilled, from *chela* (slave) soldiers and scribes to commanders and treasurers in their own right. The reproduction of skills was independent of biological reproduction since eunuchs too trained their *chelas*, and dancing-girls in turn bought and trained their own slaves - all under the aegis of the central household i.e. the palace. The command over skills was, in turn, determined by the ability of each individual household to garner the resources necessary to impart such training. In other words, the question of the emergence of skilled slave specialists was intimately dependent upon the resources of the particular household that the slave was enmeshed in. For instance, the labour of the literate slave of the palace was different from the labour of the slave in Sivnath Sastri's household, who was described as 'efficient in a variety of tasks', from cutting wood in the jungle, to fishing in the village waterways, milking the cows, threshing grain and caring for the young children of the household.<sup>54</sup>

The clear inequalities between masters determined the kind of skilled or unskilled labour performed by slaves. For such reasons alone should the numbers mentioned in the *Parliamentary Papers* of 1841 be treated seriously. These are the first colonial counts of slaves. Despite

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<sup>52</sup>Letter of Atmaram Rajaram in *Selections from the Peshwa Daftar* (ed. G.S. Sardesai, Bombay, 1931) henceforth *SPD*, IV, 147. The editorial dating of this letter is 1761. Each *ghatika* is made up of 24 minutes, so that a span of 5-7 *ghatika* is approximately two-three hours.

<sup>53</sup>Pandit Mohanlal Vishnulal Pandia, 'The Antiquity of Poet Nagari Das and his concubine Rasik Bihari alias Bani Thani' in *Journal of Asiatic Society of Bengal*, (henceforth *JASB*), 66, 1, 1897, pp. 63-75. The translation of these three crucial terms by the author is flattened out in one English word, concubine, whereas each term bears quite specific and separate meanings: *khavasa* is slave, *pasvan* is concubine, *upastri* is secondary or lesser wife. I want to keep all three meanings alive in the discussion of labour to highlight the absence of neat barriers between 'slave' wife and 'dancing girl'.

<sup>54</sup>Sivnath Sastri, *Atmcharit*, (Calcutta, 1359 B.S./1952C.E.), pp. 25-26.

considerable vagueness regarding generation, location and manner of acquisition, indigenous informants referred to the specific numbers of slaves each of them held. Compiling some of the estimates reveals (a) the widespread nature of slave-holding and (b) the inequality between holders. For instance, holdings are discussed in terms of individuals or families of slaves: the former could range between 'two slaves',<sup>55</sup> 'seven slaves',<sup>56</sup> ten slaves<sup>57</sup> fifty and 2000 slaves.<sup>58</sup> When holdings were estimated in terms of families of slaves, the range went from 'eight families of slaves'<sup>59</sup> '20 families of slaves'<sup>60</sup> to '1400 families of slaves'.<sup>61</sup>

Both ends of the scale are significant: the smallness of holdings, like one slave or two, admits of the possibility of slave-holding even among the poorer sections of a given society, while the largeness of holdings only confirm the power and wealth of the holders. Other and older narratives affirm the existence of both ends of the scale of holding. From the Marathi records, we find evidence of a Brahmin holding one slave-girl<sup>62</sup>, a *kalavantin* (skilled artisan) holding one<sup>63</sup>: at the same time, a consignment of seven female slaves and children is supplied to the palace at Satara.<sup>64</sup> The co-occurrence of lesser social standing and material resources with smaller slave-holdings is again suggested by a document in which a *kahar* (bearer) sold two slaves<sup>65</sup> as well as by the different ballads and folk-lore collected from Bengal, at least one of which, that of

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<sup>55</sup>Evidence of Kashi Nath Khan, Agent of the Ranees of Natore, Report of the Indian Law Commissioners on Slavery in India, *PP*, 1841, 28, Appendix I, p. 232.

<sup>56</sup>Deposition of Tek Loll, Mooktear of the Sadr Diwani Adalut, 25 January 1839, *ibid.*, p. 234.

<sup>57</sup>Evidence of Vishnu Dutt Dalli, chief priest of the Kamakhya temple in Assam, 5 February 1839, *ibid.*, p. 239.

<sup>58</sup>Evidence of Dhurb Singh Das, Oriah Missul Khawn in the Presidency Sadr Diwani Adalut, 15 January 1839, *ibid.*, p. 231. This witness gave the lesser figure for his own holdings and the larger figure for the holdings of such 'great zemindars' as JunmaJay Chowdhri and Bhagwat Chowdhri in the northern division of Cuttack.

<sup>59</sup>Evidence of Vydia Nath Misser, Pundit of the Sadr Diwani Adalut, 2 January 1839, *ibid.*, p. 226.

<sup>60</sup>Evidence of Gopal Lall Kaiet, agent of the Raja of Burdwan, 12 Feb. 1839, *ibid.*, p. 243.

<sup>61</sup>Evidence of Sarvanand Rai, Mooktear of Bagoroti Durya, Zemindar of Zaffar Shahi and Mymensingh, 15 Feb. 1839, *ibid.*, p. 246.

<sup>62</sup>*Bharat Itihas Sanshodhak Mandal* (ed. D.K. Rajwade, Pune, 1923), pp. 191-92.

<sup>63</sup>*Selections from the Satara Rajas and Peshwas Diaries* (ed. G.C.Vad and K.B.Marathe, Pune, 1910), henceforth *SSRPD*, VIII, 1116, p. 259.

<sup>64</sup>*SPD*, XLV, pp. 86-87.

<sup>65</sup>'Explanation and Translation of a Deed', *JASB*, 6, 2, 1837, pp. 951-52.

Manjurma, recounts the way in which a medicine-man acquired an 'orphaned' female infant, reared her as his 'daughter' and married her, only to have her escape.<sup>66</sup>

Dissimilarities among holders then was co-related to the condition of, and stratification among, slaves within the same household. The semi-autobiographical narrative by Mir Musharraff Hussain, *Udasin Pathiker Moner Katha*, described this stratification among female slave-servants (*kharida*) in one substantial household of Bengal in the nineteenth century. Speaking of an age-cohort of elderly female slaves, he wrote of one among them enjoying privileged stature by virtue of the fact that her daughter was one of four select personal attendants of the female holder. However, the younger cohort of female slaves was distinguished from the elders by the practice of seclusion. Thus the four personal attendants (*khas bandi*) Durgati, Hoorun, Noorun and Champa never left the house, whereas Durgati's mother, the privileged elder female slave Sabja, enjoyed unrestricted mobility.<sup>67</sup>

### **The Missing Link: Slavery and the Household of the Palace.**

If we reject the plantation model of slave-labour and definition as both atypical and imposed upon the Indian historian by an early colonial archive, we are simultaneously required to have an alternative picture of slave-use, as well as to probe the extent to which the plantation-model might have influenced colonial policies. The first requirement in the task of assessing slave-labour is to identify the kind of household to be studied. Such a task would perhaps have been less strained if there had been an extensive study of the role of slaves within the household-polities of medieval and early modern India.

The first of these tasks is made easier by the studies of contiguous regions. The composite nature of the household - as both *oikos* and *polis* - emphasised in the history of Egypt under the Mamluks,<sup>68</sup> the Ottomans in neighbouring Turkey and many of the kingdoms of Africa and Arabia, offer parallels for India. In all of these regions, slaves were used simultaneously in the armies and administrations, in urban and rural locations, as producers and as agents of trade and exchange, through the mediation of the central institution of that society - the household of the ruler. Unhappily classified as Muslim slavery, (implying that a form of slavery was enjoined by religious law), this classification itself has been the product of scholarly assumptions around law, religious texts and social practice. Presumably, when we find a similar social formation in China

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<sup>66</sup>D. C. Sen, *Eastern Bengal Ballads* (Calcutta, 1928), III, pp. 1-20.

<sup>67</sup>Cited in Kazi Abdul Mannan (ed.), *Mosharraff Rachana Sambhar* (Dacca, 1976), I, p. 578 and pp. 582-83. The narrative itself was first published in 1891.

<sup>68</sup>David Ayalon, *Islam and the Abode of War: Military Slaves and Islamic Adversaries* (London, 1994).

or in Rome, we do not call those either Confucian or pagan slavery (nor do we characterise them as Islamic).

The urge to categorise these as Islamic conflates prescriptive texts with practice and subverts our understanding of the processes by which a legal code is formulated to comprehend the problems arising out of a specific social formation. This had certain parallels with the way Sanskrit texts were mined by the scholar-official for 'Hindu' slavery in eighteenth - and nineteenth- century India. There have been mainly two kinds of responses to the philological dilemma. One has concentrated on the historical development of doctrine, like the study of *wala* or paramonar manumission by Patricia Crone, which illustrates the absorption of provincial practice in the classical and medieval Near East into 'Islamic' law.<sup>69</sup> The second has been to compare social practice with prescriptive texts, called 'legal realism' by Mark Tushnet.<sup>70</sup> The earliest expression of this framework is again associated with abolitionists, like William Adam's indictment of the British government in India for exceeding the limits prescribed by 'Islamic' law for the liability to enslavement.<sup>71</sup> Like Adam, many historians who work with a model of 'Muslim' slavery share a particular need to make social practice correspond with religio-judicial decrees and texts. Implicated in this is an attempt to distinguish it from the Atlantic form of slavery by insisting on the pious injunctions of manumission in the Quran,<sup>72</sup> as well as a belief that texts cannot be re-interpreted and changed.<sup>73</sup> This does not allow students of slave-societies in historical time to even look for, let alone explain, the divergences between text and practice in a particular regime, nor relate the post-emancipation histories with the textualisation of religions in all the regions affected by slavery.<sup>74</sup>

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<sup>69</sup>Patricia Crone, *Roman, Provincial and Islamic Law: The Origins of the Islamic Patronate* (Cambridge, 1987).

<sup>70</sup>Mark V. Tushnet, *The American Law of Slavery 1810-1860, Considerations of Humanity and Interest* (Princeton, 1981).

<sup>71</sup>William Adam, *The Law and Practice of Slavery in British India* (London, 1841).

<sup>72</sup>Among others, see Alan Fisher, 'Studies in Ottoman Slavery and Slave Trade, II: Manumission', *Journal of Turkish Studies*, 4, 1980, pp. 49-56; A. and G.B. Fisher, *Slavery and Muslim Society in Africa: The Institution in Saharan and Sudanic Africa and the Trans-Saharan Trade* (London, 1970); R.W. Beachey, *The Slave Trade of Eastern Africa* (London, 1976) and M. Gordon, *Slavery in the Arab World* (New York, 1989).

<sup>73</sup>For the centrality of interpretation to the constitution of a corpus of Islamic texts including the Quran, see Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate* (New Haven, 1992), pp. 79-121; Fatima Mernissi, *The Veil and the Male Elite: A feminist Interpretation of Women's Rights in Islam* (New York, 1991); *idem*, *Islam and Democracy: Fear of the Modern World* (New York, 1992), pp. 75-148; *idem*, *The Forgotten Queens of Islam* (Cambridge, 1993).

<sup>74</sup>John Ralph Willis (ed.), *Slaves and Slavery in Muslim Africa, I-II*, (London, 1985).

For Indian history, the emphasis on 'Muslim' slavery has acted hitherto as a heuristic device and as a chronological demarcation, limiting slavery studies to the period of the Delhi Sultanate (11th-14th centuries), when a series of slave-rulers appeared in North India.<sup>75</sup> Surprisingly, even when the primacy of the plantation model of slave-use was challenged, the basic postulates of class formation - like ownership of the means of production and genealogical pedigree - were seldom upset. This prohibited the conceptualisation of the political economy of the period with consequences for the 'long' eighteenth century, and it has retarded the study of the changing and embedded markets in human beings.<sup>76</sup> When we have no studies of the volumes, prices and taxes of the markets in humans in the period between the sixteenth and eighteenth centuries,<sup>77</sup> the impact of the European commercial transactions in such markets between the sixteenth and eighteenth century, as distinct from other goods and credit mechanisms, cannot be but under-assessed.

For such reasons, Sunil Kumar's recent study of slavery in the Delhi Sultanate is a welcome addition to knowledge.<sup>78</sup> By concentrating on the ways in which specific male slaves were given local administrative initiative, through the *iqta* (transferrable revenue assignment) system, Kumar has proved that the term 'free' within this structure implied the possession of options, for those men who were rooted within the autochthonous kin-and-lineage groups of the region. Since slaves of the sultan were ennobled, Kumar argued that the co-ordinates of nobility needed to be rethought for the Mughals as well:

There is no doubt that during the Mughal period the *mansabdars* were 'ennobled' by the *padshah*, but we tend to assume that the political status derived through service with the state automatically provided the officer with a position in local society. On the other hand, if the term noble implies an inherited social and political status protected at least by customary law, then the 'noble' in Mughal

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<sup>75</sup>Dharam Pal, 'The Influence of the Slaves in the Muslim Administration of India', *Islamic Culture*, 18, 1944, pp.409-417, (reprinted 1971); Gavin Hambly, 'Who were the *Chihilgani*, the Forty slaves of Sultan Shams Al-din Iltutmish of Delhi?', *Iran*, 10, 1972, pp.57-62; Salim Kidwai, 'Sultans, Eunuchs and Domestic: New Forms of Bondage in Medieval India' in Dingwaney and Patnaik (eds), *Chains of Servitude*, pp. 76-96.

<sup>76</sup>For instance, see Irfan Habib, 'Slavery in the Delhi Sultanate, Thirteenth and Fourteenth Centuries - Evidence from Sufic Literature', *Indian Historical Review*, 15, 1-2, 1988-89, pp. 248-256.

<sup>77</sup>The present evidence of the Mughal state's attempts to control the transfers is derived from the European commercial records, and from European travellers. Thus the Dutch records state that by the treaty of 1636, the Dutch Company had to pay a tax on the import and export of Indian slaves - 12% on 'Moors' and 7% on other kinds. See F. Lequin *Het Personeel Van De Verenigde Oost-Indische Compagnie in Azie in De Achttiende Eeuw Meer in Het Bijzonder in De Vestiging Bengalen* (Leiden, 1982), I, p. 178. I thank William G.J. Kuiters for the translation of this work, and of some French transfer-deeds.

<sup>78</sup>Sunil Kumar, 'When Slaves were Nobles: the Shamsi *Bandagan* in the Early Delhi Sultanate', *Studies in History*, 10, 1, n.s. 1994, pp. 23-52.

India was not the *mansabdar* whose property could be 'escheated', but the *zamindar* chieftain whose rights were protected, amongst other things, by the *watan jagir*. ...In other words, the understanding of Mughal *mansabdars* as nobles only provides us with an entry into an imperially prescribed system of ranks; it does not enlighten us in any way about the manner in which north Indian society understood and respected hierarchical distinctions in the Middle Ages.

Kumar's argument has serious implications for regional ruling groups in the fifteenth century and later, as well as for paradigms deployed in any study of 'elites' in Indian history. Especially given historiographical discussions which presume that slavery prohibited the emergence of a proletariat, Kumar's work suggests that slavery may equally well have inhibited the emergence of a nobility on the pattern of a European aristocracy. More important, the relationship between revenue-assignments to specifically trained slaves and freedmen, and the tussles of other notable groups to transform escheatable revenue-assignment into 'ancestral jagir' in the seventeenth and eighteenth centuries (the crisis of the *jagirdari and mansabdari* system) can be re-thought. Since slave-status was not equated with 'landlessness' per se, it must have been the inability to convert assignments of revenue-paying lands into 'ancestral' lands which would distinguish the slave from the non-slave noble. It would also imply that such conversion was only possible where the assignment holder, in turn, had a network of kin and corporate groups centred around him. In sum, the creation of these networks, through a range of reproductive strategies, in turn, was incumbent upon each such hegemon of the eighteenth century.

Given Kumar's insights, other studies that suggest continuities between northern India and other regions, but fail to go beyond the terms of European social organisation appear faintly disappointing. For instance, in one of the recent studies of Bengal, Eaton gives a brief glimpse into military slavery but makes no deductions from it for a general social history of the region.<sup>79</sup> Eaton does not explicate the relationship between slavery, kinship, kingship, and community. Instead, he takes some pains to refute the possibility of any connection of Islamisation with slavery by equating Islam with the idea of equality, a claim which had been refuted by Kidwai. Nevertheless, Eaton's evidence clarifies the existence of similar patterns in North and East India, a similarity that historians of later periods in the history of Bengal have paid scant attention to.

Exciting though the possibilities were, the issue of slavery was largely obscured in the textbook histories of the Mughals.<sup>80</sup> Certainly, the Mughal 'nobility' would appear to have been a distinctly qualified order, if historians had been willing to interrogate their own assumptions of class-formation, or household constitution. Exceptions are few. One is J.F. Richards, who described

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<sup>79</sup>Richard M. Eaton, *The Rise of Islam and the Bengal Frontier, 1204-1760* (Berkeley, 1993).

<sup>80</sup>I. H. Qureshi, *The Administration of the Mughul Empire* (New Delhi, 1979); U. N. Day, *The Mughal Government 1556-1707* (New Delhi, 1969); M. Athar Ali, *Mughal Nobility under Aurungzeb* (Aligarh, 1966), among others.

the Mughal household as a 'world of domestic slavery',<sup>81</sup> noting the use of slave-eunuchs obtained from the slave-markets of Bengal and the institution of *khanazadgi* (indicating the presence of second-generation slaves, born in the household) which provided the paradigm of political conduct - that of selfless, loyal hereditary service, and a comportment compatible with subordination to the master/emperor. Considering that the Mughal household persisted into the nineteenth century, and provided the model for many of those social groups which were intricately enmeshed in the empire, there are significant implications for the study of regional politics in the eighteenth and nineteenth centuries.<sup>82</sup> Referring to some of the latter as 'extended sets of *jajmani* relations', Bayly acknowledged that a 'slave caste' phenomenon was more widespread than is generally known.<sup>83</sup> Just how widespread it was can be glimpsed in the moral defences offered during the mid-nineteenth century, when particular ruling houses refused to ban the sale of children on grounds such as the following:

in the Zenanas of the Durbar and other Sirdars it is not customary to employ men Servants, and married women... cannot always be in attendance which is of itself a source of inconvenience - on the other hand there are Gosaees &ca who never have offspring and according to ancient custom they purchase a Boy on whom they bestow all their property...<sup>84</sup>

Unfortunately, the simultaneous elaboration of the meanings of reproductive politics in the context of slavery has not proceeded very far in the Indian historiography. The responsibility for this lies with colonial officialdom, to whom slavery as a state of menial labour was a condition specific to men. As 'domestic slavery', especially of so-called elite households, could not be onerous, the harem too was rendered insignificant to historians. Therefore, the reproductive aspects of the state have been largely ignored by medievalist and modernist historians alike. Despite urging the inseparability of the Mughal household and administrative departments, and the household as a major unit of economic organisation, putting the harem at the centre of the map

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<sup>81</sup>J. F. Richards, *The Mughal Empire* (Cambridge, 1992), p. 62; *idem*, 'The Formulation of Imperial Authority under Akbar and Jahangir' and 'Norms of Comportment among Imperial Mughal Officers' in J.F. Richards, *Power, Administration and Finance in Mughal India* (Hampshire, 1993), pp. 252-289.

<sup>82</sup>For the purchase of seventy-five female slaves from Delhi by Balmukunddass, agent of Haider Ali, see *Maheshwardarbarchi Batmipatren*, no. 69, 28 July 1782, in *Itihas Sangraha*, 1, 12, 1909, p. 156. For the purchase of slaves from Patna by the Awadh court, see letter from Capt. Gabriel Harper to James Alexander, 25 March, 1770, in BS&M, P/A/10., 15 April, 1770, unnumbered.

<sup>83</sup>C. A. Bayly, *Rulers, Townsmen and Bazaars: North Indian Society in the Age of British Expansion 1770 - 1870* (Cambridge, 1983), p. 50, fn. 36.

<sup>84</sup>Translated Khurreeta from H.H. (Gaekwar), to Lord V. Falkland, Governor of Bombay, 19 May 1850, BC F/4/2401/129609.

of political culture and social history, appeared to be on few historiographical agendas.<sup>85</sup> Thus what appears to have been a common denominator in the constitutions of the eighteenth and nineteenth century ruling households in Mysore, Awadh, the Maratha, Sikh and Rajput states, all of whom used slaves under different ideological paradigms, has been relatively obscured. However, writing harem slavery into the given historiography requires not the erection of alternative mythologies, but a refined theoretical perspective, within which an exploration of power, articulated through hierarchies of age, wealth, social status and sexuality, occurred. It is no more fruitful to discuss Mughal political culture in terms of liberal or other philosophical paradigms than it is to ignore the reproductive bases of that polity altogether.

Two disparate studies of the Mughal harem, Findly's *Nur Jahan* and Lal's *The Mughal Harem*<sup>86</sup> illustrate the force of this. While the former details the organisation of life in the harem / *zanana* complete with laws of seclusion, structures of seniority and rank, and the diversity of functions, the author's inability to relate this to reproductive politics, kingship, and social organisation in specifically non-European terms is a serious flaw. Partly responsible for this is the recurrent miscognition of the meanings of private and public, kinship and subordination. For instance, Findly follows the time-honoured tradition of characterising the claims Akbar made upon his adversaries' women as 'marriages...to enhance his political alliances and to stabilize his empire', without taking into account the range of diverse institutions of marriage itself among the groups thus 'allied' with. Furthermore, the nature of such transactions seems to have no bearing on the nature of political allegiance itself. Conversely, the implication that all such 'marriages' were relations between unequals is taken as self-evident, without exploration of the other and more equal marriages that existed simultaneously, within the ruling household. Given the author's uncritical interpretations, anachronisms like 'Jahangir moved beyond the purely political context of marriage and introduced into it an element of love' (p.100) mar her interpretation of the household itself. The conclusion seems inescapable that all the values, dichotomies and meanings of a liberal Western historiography have been read into the Mughal past.

Lal's work notes the secondary status of women received as pawns in the Mughal harem, the close connection between slavery and concubinage, the concentration of skill among slaves and slave-born, and critically, the fact that the most important person living in the harem was the king. Lal also argued for the continuities between Sultanate polities and Mughal structures in his

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<sup>85</sup>This is true of Stephen P. Blake, *Shahjanabad: The Sovereign City in Mughal India, 1639-1739* (Cambridge, 1991) and *idem*, 'The Patrimonial - Bureaucratic Empire of the Mughals', *Journal of Asian Studies*, 39, 1979, pp. 77-94.

<sup>86</sup>Elison Banks Findly, *Nur Jahan: Empress of Mughal India*, (Oxford, 1993) and K.S.Lal, *The Mughal Harem* (New Delhi, 1988).



discussion of the size and organisation of the harem of Akbar and his successors. In the Sultanate period, he urges, it was believed that the numerical strength and consumption patterns of the harem determined the importance and stature of a ruler. Such ideas made it almost imperative for the king to have the largest harem as compared with that of his nobles or the neighbouring independent rulers. Lal argues that Akbar's military conquests reinforced the political significance of the harem, with the Rajput princesses sent there either as tribute or as pawns and pledges of faith, other women as booty captured in war, and the growing numbers of castrated boys 'gifted' as revenue payments, (especially from Sylhet in eastern Bengal) by the end of the seventeenth century. The shortcomings, however, are obvious. If collecting women is a political act, what does this say of the values of wealth-creation, followership, and the formation of class and state? His pre-occupation with a homogenous and hermetically sealed category, 'Muslim', makes him oblivious of the harems of other contemporaneous groups like the Rajputs themselves. In the context of the sub-continent, such a focus smacks of a communalised historiography, by the reckoning of which, harem-slavery was peculiarly Islamic and 'foreign' to the indigenous ruling houses prior to the advent of the Ghuznavids.<sup>87</sup>

The best antidote is offered by Varsha Joshi's study of Rajput ruling houses, which proves the existence of slave-based harem systems within the ideological and ritual confines of 'Hindu' polities.<sup>88</sup> By focusing on polygyny,- simultaneous acquisition of multiple women - Joshi directs attention to the importance of reproductive politics in Western India between the thirteenth and nineteenth century. Prodigious in its revisionist scope, Joshi's study also has its limits. Though she finds that sons born of slave-mothers did not inherit the throne, but were provided for more generally, she says nothing of the 'lineage-based' state that needs slave-mothers in the first place. Nor does she scrutinise the implications of slavery for the tensions and conflicts within the nexus of kinship and kingship, and the complex role of the British colonial regime in the persistence or modification of these structures. Definitional problems remain unexamined precisely because of the 'closed' nature of lineage and caste that she begins with. Thus the discreteness of the categories of slave and wife, or slave and daughter/ sister. It is a problem shared by Lal and Findly in that they translate the terms of kinship and affinity, the core of the ideologies of legitimation by slave-holders, in very literal ways.

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<sup>87</sup>A notable instance of this is Lal's comment at the end of Chapter I, which goes 'Small wonder that the Islamic system of slavery was revolting to the Hindu psyche because it was alien to Hindu Dharma and ideologically abhorrent to it.' See his *Muslim Slave System in Medieval India* (New Delhi, 1994), p. 8. There is a political intent in tagging this sentence on to a paragraph which explicitly records the transfer of slave girls 'to the English gentlemen' at Multan in 1820's, and concentrating only on the seller's religion.

<sup>88</sup>Varsha Joshi, *Polygamy and Purdah: Women and Society among Rajputs* (Jaipur, 1995); also Marzia Balzani and V. Joshi, 'The Death of a Concubine's Daughter', *South Asia Research*, 14, 2, 1994, pp. 136-62.

The issues left out from the above work constitute the strengths of studies of other harem-systems, the most recent of which is Leslie Peirce's work on the Ottomans between the fourteenth and the seventeenth centuries.<sup>89</sup> Arguing that the harem lay at the heart of the empire, and of all political processes, Peirce illustrates the critical contribution of slave-women to the consolidation of dynastic rule and patrilineal reproduction, and the consequent changes in status and wealth of single-son concubines over a period. These changes, in turn, were resented by groups of Ottoman subjects, like the ulema, whose investment in the power and privilege of rulers made their representation of these women's roles appear illegitimate usurpations. Though Peirce does not extend the study to the nineteenth century, when it is juxtaposed against other studies of the Imperial harem of the nineteenth century, the direction of political change in the Ottoman harem appear to have resulted from a combination of the internal contradictions of the structure and European imperialist and ideological pressures to end the slave-trade.

A similar emphasis on the centrality of the royal household to the political, administrative, military and religious life of the kingdom is evident in the work of historians of slavery in Africa. Edna Bay's study of the palace organisation of precolonial Dahomey shows how this worked to maintain and extend the political power and control of the monarchy by absorbing and distributing the bulk of female slaves brought to Dahomey.<sup>90</sup> The palace inhabitants, she argues, included war captives, slaves purchased abroad, women and girls recruited from all the lineages in the Dahomean state and the daughters of the king and female descendants of his lineage. Critically for us, Bay notes that despite enormous variations in the social standing of the women who entered the king's service, they were all 'legally' wives (ahosi) to the king, distinguished from nonroyal wives by the fact that all of the former lacked the fundamental protection of common marriage, the right to divorce. Thus her work illustrates (a) how the language and institutional structures of the common polygynous household were employed to describe the experience and functions of life-long service to the ruler and (b) the distinction between legal status (slave) and rank in terms of titles and access to positions of power, wealth and authority.

Peirce and Bay both significantly rewrite the meanings of what, in feminist theory, has been called the 'false universal' - the dichotomy of private/ public. Instead of erecting a bipartite division of power coinciding with visibility and space, Bay and Peirce individually illustrate that power in the polities they study is imagined and arranged in terms of concentricity. Arguing that power relationships in Islamic societies are represented by spatial division more horizontal than

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<sup>89</sup>Leslie P. Peirce, *The Imperial Harem: Women and Sovereignty in the Ottoman Empire* (Oxford, 1993).

<sup>90</sup>Edna G. Bay, 'Servitude and Success in the Palace of Dahomey' in C. Robertson and M. A. Klein (eds), *Women and Slavery in Africa*, pp. 340-367; *idem* 'Belief, Legitimacy and the *Kpojito*: An Institutional History of the Queen Mother in Precolonial Dahomey', *JAH*, 36, 1995, pp. 1-27.

vertical (so that one moves *in* towards greater authority from the outermost circles of the most minimal influence, privilege and wealth), these scholars explain the importance of the inner as the centre of this series of concentric circles, identified with the ruler, and the space he inhabits. Peirce underlines the inter-relatedness of sovereignty and seclusion in discussing the spatial and metaphorical inviolability of the harem. Etymologically derived from the Arabic root *h-r-m*, the term harem combines two sets of meanings, one, to be forbidden or unlawful, and the second, to declare sacred and inviolable. Thus a harem is, by this definition, a sanctuary or a sacred precinct, redolent of religious purity and honour, and evocative of the requisite obeisance. By implication, it is a space to which general access is forbidden or controlled and in which the presence of certain individuals or certain modes of behaviour are forbidden. This sense of the harem as sanctuary is as applicable to the holy cities of Mecca and Medina as it is to the quarters of a palace where the sultan - God's shadow on Earth - resided.<sup>91</sup> The degree of seclusion served as an index of status because authority was a phenomenon of interiority, the boundaries of which were heavily guarded. Thus proximity to the ruler, and access to interiors, determined rank and power. It is within this political hierarchy, an inversion of dominant Western notions of the politically significant as 'outer' or public, (and male) and the politically marginal as 'inner' or private and domestic, that the meanings of seniority, gender and power have to be sought.<sup>92</sup>

Rewriting the spatial representation of power is fundamental to an appreciation of regimes where the person of the ruler creates a sacred space around the presence. In such regimes, only those who were not considered to be fully adult males could be routinely permitted in the inner worlds of the palace: eunuchs, dwarfs and mutes, and slave-women and children of both sexes. Furthermore, the more intimate one's service to the ruler in the inner world, the greater one's standing in the outer world. Thus eunuchs and female slaves could hold the highest offices, with corresponding salaries and incomes.

### **The Metaphors of Kinship: a Slave by Some Other Name.**

As some of the historical work on the Rajput households and Mughal households makes clear, apart from the dominance of a particular kind of labour process, the interlocking assumptions of

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<sup>91</sup>Shaun Marmon, *Eunuchs and Sacred Boundaries in Islamic Society* (Oxford, 1995), pp. 6-15.

<sup>92</sup>This is not the equivalent of Dipesh Chakrabarty's understanding of the 'domestic' as site of sacred in 'The Difference-Deferral of a Colonial Modernity: Public Debates on Domesticity in British India' in D. Arnold and D. Hardiman (eds), *Subaltern Studies, VIII* (Delhi, 1994), pp. 50-88. Where Chakrabarty's *grihalakshmi* is the sovereign in the picture he draws of mid-nineteenth century Bengali Hindu household, the alternative here offered is that it is the sovereign male, with attributes of divine kingship, whose presence in the interior makes this a sacred space. Other people's power derives from that godly male seclusion, whether it is of the ritual specialist, or the castrated slave, or the female concubine/ wife, all of whom may be agents on the sovereign's behalf.

kinship (like status inheritance, lineal descent) and affinity have inhibited the study of slavery. Few scholars of India, for instance, have noticed that 'marriage' or 'daughterhood' itself operates within a corpus of linguistic strategies, whereby all the women within the princely household become forbidden to others. Even fewer have noticed that kinship terms supplanted references to jural status, when applied to male slaves under the Sultanate and the Mughals. Thus Aibak 'gave the title of son to Iltutmish and honoured him by keeping near his own person', and Muhammad Ghori described his Turkish male slaves as 'sons... they will inherit my lands and continue the Khutba in my name when I am dead and gone'.<sup>93</sup> In 1582, Akbar is said to have announced a change of nomenclature for the Imperial slaves, who were to be henceforth styled *chelas*.<sup>94</sup> Greater attention therefore to historical linguistics is specially necessary when assessing the records of the late eighteenth and nineteenth centuries.

By concentrating on historical semantics, one can unearth a basic discrepancy between historiographical imagination and the information provided in the official Indian records of the nineteenth century, and the form of slave labour employed in the Atlantic plantations. According to the slave demographics of the initial years of the middle passage, slave-imports into the colonies were predominantly adult and male, while the transfers described in the Indian evidence is largely of infants and females. Between Dacca and Calcutta or Chinsurah the slaves being traded were 'from two years and upwards, as far as six years'<sup>95</sup> while the ages of slaves taken from Chandernagore to Calcutta were between six and twelve years.<sup>96</sup> In 1811, the Magistrate at Bareilly found forty-three slaves, many of whom were 'infants and unable to refer to the places where their parents reside'.<sup>97</sup> In the late 1830s, an official from Dinajpur noted that children of about six years old were bought for a few rupees, seldom beyond ten rupees.<sup>98</sup>

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<sup>93</sup>Dharam Pal, 'The Influence of the Slaves in the Muslim Administration of India', *Islamic Culture*, 18, 1944, pp. 409-17 (reprint, London, 1971).

<sup>94</sup>Badauni attributed the use of the latter term to the influence of the mendicants called *jogis*, hinting at a form of borrowing nomenclatures from within the same cultural milieu, referring to the existence of child-oblates devoted to a spiritual corporate body. See Irfan Habib, 'Akbar's Social Views - A Study of their Evolution', *Papers of the Indian History Congress, 53rd Session, 1992-93*, p. 223. For suggestive analogies, see John Boswell, *The Kindness of Strangers: The Abandonment of Children in Western Europe from Late Antiquity to the Renaissance* (New York, 1988), pp. 296-321.

<sup>95</sup>Collr., Dacca, to Committee of Revenue, 2 March 1785, *Slavery in India: Correspondence, (PP)*, 1828, 4, no. 125, p.11.

<sup>96</sup>*Ibid.*, pp. 22-23.

<sup>97</sup>T. Thornhill to T. Brooke, Agent of the Governor-General at Bareilly, 25 Apr., 1811, BPC, P/119/32, 10 May, 1811, no. 109.

<sup>98</sup>Civil and Session Judge, Dinajpur, in *PP*, 1841, Appendix II, p. 308.

Travellogues suggest a continuity in the age and gender profiles of the transfers of the intervening seventeenth and eighteenth centuries. Mundy, travelling through western and upper India in the seventeenth century recounted two separate instances - one in western India and the other in eastern India - of little girls running away from their masters.<sup>99</sup> John Marshall, a factor of the East India Company, noted that during the famine in 1671, when he was offered a twelve-year-old slave for half a rupee, he refused to purchase the lad 'beeing so old'; in May 1671, he bought 'a Braminie slave boy for 4 rupees... his hight [sic] was 43 inches, his age 7 or 8 yeares'.<sup>100</sup> James Forbes, having resided seventeen years in India, found that 'Malabar children are generally a cheap commodity at Anjengo'. He had purchased a boy and a girl of about 8 or 9 years of age 'for less money than a couple of pigs in England' - again 'as a present to a lady at Bombay'.<sup>101</sup> For Central India, the predominance of female 'children and grown-up young women' and the widespread nature of slave-holding and slave-trading by Rajputs, Brahmins, and Banjaras alike was detailed by Malcolm.<sup>102</sup>

Surely, if agrarian labour was the immediate use to which slaves were to be put, the trade in infants, a substantial majority of which was also female, was illogical. While this is not to deny that children, female and male, have been made to labour in various capacities and tasks, what is being pointed out is the fallacy of searching for a specific mode of production characterised by infantile and female labour. The premium on youth could represent a mixture of economic and social reasons. As Bradley pointed out, the reasons for acquiring infant (and unskilled) slaves in Rome was the low cost to the owner of maintaining a child after purchase, even over a period of years. From the holder's perspective, this was financially more attractive than the expenditure of a much larger capital sum for the acquisition of an adult, presumably skilled and productive, slave. It is also possible that a child offered a short-term speculative advantage as well as long-term investment, for she/he could be sold many times over within the period of youth.<sup>103</sup>

This explanation appears to correspond with the details of the Indian transfers in the

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<sup>99</sup>Richard C. Temple (ed.), *The Travels of Peter Mundy in Europe and Asia, 1608-1667* (London, 1914), II, pp. 88, 172. In both instances Mundy records his unwillingness to take the runaways into his company for fear of charges of theft being brought against him.

<sup>100</sup>S. A. Khan (ed.), *John Marshall in India: Notes and Observations in Bengal, 1668-1672* (London, 1927), pp. 125, 137.

<sup>101</sup>James Forbes, *Oriental Memoirs: Selected and Abridged from a Series of Familiar Letters* (London, 1813), I, p. 392.

<sup>102</sup>John Malcolm, *A Memoir of Central India, including Malwa and Adjoining Provinces* (London 1823-24, reprint Delhi, 1970), II, pp. 199-203.

<sup>103</sup>K.R. Bradley, *Slavery and Roman Society* (Oxford, 1994), p. 58.

nineteenth century in two aspects. Where prices were concerned, all the Indian agents and *vakils* (pleaders and representatives authorised by specific litigants), many of them slave-holders, testified that children of between five years and eight years of age were far cheaper to buy than young adult females or males, who cost more.<sup>104</sup> It is also evident that such children, when not kept by the household, 'changed hands' frequently. In 1791, one of the French ships transporting slaves from Calcutta to Pondicherry, carried on it seventeen 'girls' between the ages of seven and seventeen. Nine of them were clearly listed as 'slave to a person by the name of Jeffery,' 'slave to a person by the name of Bintoor' 'slave to a Portuguese woman' and so on. Significant in this list is the frequency of descriptions like that of a fourteen-year-old who 'was stolen from Dana by Senkaruah Sing, who left her at the house of Mahrua, was sold by her to Petit Jaun and by him to Jourdan'.<sup>105</sup>

The problems with decoding the transactions (whether of sale, mortgage, lease or gift) arise when a seventeen-year-old male or female is described as a 'boy' or 'girl' in the English records, or the local equivalents like *chhokra* and *chhokri*.<sup>106</sup> Only a comparative reading of terms with those used in the Atlantic systems reveals that terms applicable to slaves imbued them with permanent infantilisation, and transferred their legal and civic disabilities into a metaphoric status. In a similar vein, therefore, when a child is described as sold by, or stolen from, her 'parents' in the English records, questions arise about the kind of parenthood of the 'child'. Implicit in these descriptions is a notion of natural authority, and possession, resident in an owner-cum-parent. Much of the English reporting in the late eighteenth and nineteenth centuries was blind to the content of Indian familial terms. Our inability to interrogate this leads to a replication of those blinkers, and the ideology of the domestic forwarded by the plantocracy. This is illustrated by the work of Amitava Ghosh.<sup>107</sup> On the basis of a legal document of the twelfth century, which grants manumission to a female slave, Ghosh conjectures that the master Ben Yiju, 'married' the Nayar slave girl. Ghosh notes that

slavery appears to have been a means of creating ties of fictive kinship. Wherever

<sup>104</sup>Evidence of Raj Govind Sen, *PP*, 1841, Appendix I, p. 224. Tek Loll said 'children from six to eight sell for from 10 to 15 rupees' where adults cost between 50 and 125 rupees, p. 225. The evidence of Dhurb Singh Das was that 'a boy of five or six years sells for one-fifth of the price of a young adult: the same of a girl', p. 231.

<sup>105</sup>*PP*, 1828, pp. 31-33.

<sup>106</sup>For a list of fourteen slaves between the ages of 8 years and 17 years, all of whom are named in this style, 'Emanee Boy, Foyzun Girl', see Chief Magt., Calcutta, to Sec., GOB, 21 July, 1837, BCrJ., P/141/14, 27 July, 1837, no. 18; for deeds using terms *chhokra* and *chhokri* see Appendix I of this thesis.

<sup>107</sup>Amitava Ghosh, 'The Slave of Ms.H.6' in Partha Chatterjee and Gyanendra Pandey (eds), *Subaltern Studies*, VII, (Delhi, 1993), pp. 159-220.

kinship played an important organizational role in society, there had to be some parallel institution for creating and initiating new ties and alignments: left to itself kinship would be too narrowly bounded a principle - even in a purely demographic sense - to be workable. Often it was 'slavery' that played that role....<sup>108</sup>

However, he absolves the metaphors of kinship and affinity from the searching analysis that he brings to the metaphors of devotional Bhakti. Thus he reserves for 'marriage' the status of a pious act, even fondly imagining as a conclusion the return of the slave-holder to his 'wife'. In this, Ghosh appears to have overlooked what was demanded of slaves in order for them to survive, and to the social implications (for kinship-based societies) of such demands. Devotion to (*bhakti*), and complete identification with, the master was precisely what was required of the slave in slave-owning societies of the known historical world. In fact, the word *chelah* (loosely translated as disciple in English), used in the Persian records for male slaves, is etymologically located in such demands (of devotion) being met, no doubt, by slaves - and slaves alone.

Obviously, one must refine the term 'fictive kinship' used by Ghosh. Fictive kinship disregards biological-genealogical relationships, whereas genuine kinship ties are based upon them, but in both the consequences may be the same, endowing the fictive kin with the same or similar capacities and duties as the kin by birth. For instance, in 1789, when Qutlaq Sultan Begum, a widow of the Mughal prince, Jahandar Shah, referred to Lord Cornwallis as her son's 'uncle', she expressly granted to him the prerogative of a family elder in the matter of finding a matrimonial match for his fictive nephew.<sup>109</sup> An account by a *sereshtadar*'s child also referred to fictive kinship terms in which the male zamindars of Meherpur were addressed: 'Those who were of a similar age with my father were addressed as *kaka* (paternal brother) and were respected as our own *kaka*'.<sup>110</sup> Or, as the slave-owning *bepari* (grain-merchant) of a ballad responded to the man who had asked for the marriage of the male slave to his daughter, 'the brother of my village shall be honoured'.<sup>111</sup> As these concessions and prerogatives reveal, the idiom of kinship also operated as representations of hierarchy, of powers, claims and privileges, but above all, of deference.<sup>112</sup> Thus appropriately enough, another prince of the Mughal household complained that though he

<sup>108</sup>Ibid., p. 196.

<sup>109</sup>CPC, VIII, no. 1402, p. 595.

<sup>110</sup>Dinabandhu Ray, *Sekaler Smriti* (Calcutta, 1977), p. 19.

<sup>111</sup>Kshitish Chandra Moulik (ed.), *Pracina Purbabanga Gitika* (Calcutta, 1971), II, p. 284. The exact terminology is *gram-shompokke bhaai*.

<sup>112</sup>This is a point made for Bengal village society by Ronald Inden and Ralph Nicholas, *Kinship in Bengali Culture* (Chicago, 1977), pp. 32-34, 87-93.

was careful in showing due respect to his 'mother', Qutlaq Sultan Begum, he received only humiliation and ill-treatment from her.<sup>113</sup> Only the Begum's clarification that Muzaffar Bakht was the son of a slave-girl who had been an attendant in the Delhi palace reveals that something more than merely 'fictive kinship' is involved in this case.

The appropriate term may actually be metaphorical kinship which disregards *both* biological relationships *and* the precise effects ascribed to them.<sup>114</sup> Ghosh does not investigate the effects, or the content, of either. Like other historians who have commented on the untranslatableability of vernacular terms into English, Ghosh selects for his discussion of untranslatableability the terms which fall outside the realm of kinship. For instance, noting that the eighteenth century official, Buchanan Hamilton did not provide the Tulu or Kannada terms of 'slave', Ghosh compensates for this deficiency by supplying the Kannada word *tottu*, which, in his words, is 'an ambiguous term, used for servants and hired workers as well as 'slaves'. Examining the range of vernacular terms for marriage, or sonship, could have yielded a subtler evaluation of the constitution of the household itself through such pawnage mechanisms as he touches upon.

Very similar attitudes towards kinship, and terms from that domain, were responsible for the early ethnographers' compilation of the vernacular terms denoting slave-status. For instance, James Taylor supplied the words current in Dacca, *ghulam*, *bhandari* (for the males) and *dasi*, *bandi*(for the females).<sup>115</sup> Yet he, like Buchanan, overlooked, or mistook, the content of kinship terms also operative in those cultures he wrote about. Thus, it is quite possible that Buchanan confused genealogical kinship with metaphoric kinship when he characterised as 'not slaves' the children purchased and reared as *palokbeta* (sons by nourishment) that he found in Rangpur. From the same region in North Bengal a century later, a *jotedar* described the transfer of his *pottah* to his purchased son (*kritaputra*) for an annual rent.<sup>116</sup>

The general denial of such purchased persons being slaves was endemic to the colonial officials from the eighteenth to the mid-nineteenth century. The incomprehension of such terms

<sup>113</sup>CPC, VIII, no. 781, p. 323.

<sup>114</sup>Crone, *Roman, Provincial and Islamic Law*, p. 48.

<sup>115</sup>James Taylor, *A Sketch of the Topography and Statistics of Dacca*, (Calcutta, 1840), p. 320.

<sup>116</sup>Nubbee Bux to Col. J.C. Haughton, in Sec. BOR to Sec. Rev., 27 Sept. 1875, BRP, P/237, Nov. 1875, no. 45. For an earlier document of similar import, and the opinions of pundits in Supreme Court of Calcutta, see W. A. Montriou, *Some Precedents and Records to Aid Enquiry as to The Hindu Will of Bengal* (Calcutta, 1870), pp. 48-54. For H. T. Colebrooke's insistence on the separation between slave and son, in denial of contemporary indigenous interpretation, see letter in Sir Thomas Strange, *Hindu Law: Principally with Reference to Such Portions of It as Concern the Administration of Justice in the King's Courts in India* (London, 1830, reprint Madras, 1859), II, pp. 221-23.



is evinced in the cases of defamation which followed upon the use of such terms between indigenous litigants. Consider the case of a Sessions Judge of Chittagong who tried two men for having defamed a native doctor in Chittagong : the latter's infamy was brought on by having addressed the Deputy Magistrate as *dharmapeta*.<sup>117</sup> The force of this kinship term as sarcasm, and insult, can only be gauged from a story of a thief written between the end of the eighteenth century and the beginning of the nineteenth extracted below:

... *aji hoite tumi amar dharmabap hoile, jokhon je agya koriben eyi bhritto kritoshaddho pranpone palon koribo. Kamini kohilek... hukar korme sharboda nijukto thhako...tomake chor chor boliya sharbida kahantok daki, aji hoite ami tomar naam Ramballav rakhilam. Saudagar kohilek 'je agye mohashoi'...*

(...you are my god-father, I accept you as my master. Whatever orders you may be graciously pleased to pass, it will be my duty as an humble servant to execute to the best of my power, and even at the risk of my life. Kamini said,...'I would simply place you in charge of my huka...how long shall I address you as thief?...I shall henceforth call you Ramballav.' The merchant agreed....)<sup>118</sup>

Yet another instance of the asymmetrical power of the *dhurrumbap* is evinced by the legal records, where a man called Ramnarayan Buddee is said to have pleaded with Bholanath Lushkur for three years to stop preying on the former's wife, and as a last resort, he had recourse to calling the Lushkur his *dhurrumbap*.<sup>119</sup>

If metaphorical kinship terms implying fatherhood and sonship carried such clear connotations of mastery and servitude, and were associated with punitive resolutions, what could be the equivalent terms for females? A document from the Marathi sources suggests that terms implying daughterhood may have borne similar meanings. This refers to a regulation pertaining to those 'girls' whose husbands died; they were to be classed as *rajbeti*. If a man wished to perform a secondary marriage (*pat*) with her, he had to agree to redeem her from the state (*sarkar*) according to custom (*chal*). But behind this regulation lay complete awareness of the indignity of such 'daughterhood' and secondary 'wifehood' for it specified that

Some women the people of the *jati* do not allow to remain *rajbeti* because the *jati* is lowered (*jati hras hote*). Therefore some respectable member of the *jati* agrees to the *nazar* and carries out the *pat*. If the woman is good (*changli*) then it is profitable to the state because if one says fifty, another says hundred and the sum thus increases. This is because the money for a *rajbeti* is not fixed but depends

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<sup>117</sup>H.C.Richardson, 11 Sept. 1868, in Offg. Commr. Chittagong to Sec. to GOB, 26 Feb. 1869, BJC, P/433/27, March 1869, no. 257.

<sup>118</sup>D. C. Sen, *Bengali Prose Style: 1800-1857* (Calcutta, 1921), pp. 17-19. The English translation is provided by the author. No contemporary dictionary, including that compiled by the missionary Carey, mentions such terms, widely used both in oral and literal traditions of the period. This, alongwith the context-dependent meanings of kinship terms, is the reason for the absence of a glossary in my text.

<sup>119</sup>**Government on the prosecution of Ramnarayan Buddee vs. Bholanath Lushkur**, *Report of Cases determined by the Nizamut Adalat*, 1853, III, Part II, p. 772.

on what the buyer (*khariddar*) will give....<sup>120</sup>

From as far afield as Assam, David Scott, the Governor-General's Agent, wrote that 'the universal designation for a female slave, in Assam, is *betee* or daughter'; in Sylhet, male slaves were seldom 'addressed by their masters by any other term than that of brother or son'.<sup>121</sup> From mid-nineteenth century Bengal, another author recalled how the female who had become a servant (*paricharika*) in his paternal grandfather's household after the cyclone of 1833 was addressed: 'we did not consider her a slave (*dasi*), we addressed her as elder sister (*didi*)'.<sup>122</sup> And folk narratives, like those of Gopichandra, the prince who underwent slavery for twelve years in the house of the *noti* (skilled performer), deploy double emphasis in terms like *bandi beti*, *bandi dasi*, and *chela chheila* to make the same point.<sup>123</sup>

The implications of analysing metaphoric kinship for a historical assessment of the transfers of human beings and for their use are quite significant. The various transactions that were described by travellers, and the English officials in the *Parliamentary Papers*, as the sales of 'sons' and 'daughters' may equally well have been transactions in children who were already slaves. The fact that crises like famines, and floods, were especial moments associated with these sales suggests their dispensability, as well as a reflection of the ways in which this conditioned the nature of the transfers in an institutionalised setting. Particularly since transfer during distress was associated with the inability to maintain one's dependents, and the need for liquidating one's holdings,<sup>124</sup> the 'market', as it appeared in the nineteenth century, was one where acquisition may have been associated with 'respectability' while sale, mortgage and pawnage with dishonour and discredit. Certainly, Malcolm had noticed this during a period of scarcity in Malwa, where 'Rajpoots, and men of other tribes, particularly Sondees, [were] selling the children whom they have by their slaves, who are considered born in a state of bondage'.<sup>125</sup>

The inability to distinguish between different kinds of sons and daughters would recur time and again in the colonial records, especially of slave-transfers. While Company officials wrote extensively on the limits of affective bonds in Indian families which made selfish/virtuous

<sup>120</sup>Information collected by Vinayak Rao Aurungabadkar for Richard Jenkins, Resident at Nagpur, circa 1813, in Mss. Marathi D. 31, folio 100.

<sup>121</sup>Report from Indian Law Commissioners, (*PP*), 1841, Appendix VI, no. 5, p. 404.

<sup>122</sup>Sivnath Sastri, *Atmcharit*, p. 25.

<sup>123</sup>Ashutosh Bhattacharya, *Gopichandrer Gan* (Calcutta, 1959), p. 243 and *passim*.

<sup>124</sup>See deed of transfer by one self-acknowledged 'poor woman' in letter of Commr. Nagpore to Sec. to GOB, 1 Oct. 1841, BCrJC, P/141/58, 12 Oct. 1841, no. 47.

<sup>125</sup>Malcolm, *Memoir*, II, p.200.

'parents' sell their children, actual examination of the papers sometimes revealed a greater complexity. The Agent at Bareilly discovered in 1811 that for the infant-slaves purchased at the towns of Nujeebabad and Auggeneah - 'established marts where these children are collected in hundreds' - the deeds of purchase were executed, not by the genealogical parents of the children as had been imagined by all the officials, but by the middlemen slave dealers in favour of specific individuals.<sup>126</sup>

The existence of such metaphorical kinship terms, in turn, throws the simplest taxonomies of transfers into confusion. For instance, the 'gift' of such metaphoric 'daughters' is an obvious object of reappraisal. As European travellers had noted, the gifting of young slaves to politically powerful individuals, like chiefs and kings, seemed to have been a well-established feature of political and economic life. Manucci noted that when envoys from Balkh brought Tartar and Uzbek women for sale to the Mughal court, one was first 'bought by Afticar Can [Iftikhar Khan] and by him presented to the king'.<sup>127</sup> In a similar vein, Bernier noted that the king of Ebeche [Ethiopia] sent 'to the Great Mogol twenty-five choice slaves, nine or ten of whom were of a tender age'.<sup>128</sup> This kind of transaction, where a political relationship is mediated through the surrender of one's own claims in people to the superior, could take place in various contexts. The one most familiar to us is that of the vanquished power in a war, but much more frequent were the occasions when such 'gifts' were given in order to extract some other concession from the recipient, like a concession in taxes. Thus in one of the accounts of the Rajas of Benares, it is said Mansaram obtained a *sanad* for his *zamindari* from Nawab Safdar Jang 'through Muhammad Quli Khan whom he had made his patron by making him the present of a slave-girl'.<sup>129</sup>

Conversely, assertions of supremacy may also have lain in the extraction of such 'gifts' from the vanquished. For instance, Khafi Khan's description of the Mughal commander's demands from the Raja of Assam seem to be open to such re-interpretation. Hitherto translators of that passage have rendered it thus:

it was demanded that he should send his daughter (*beti*) to become an attendant of the Imperial household (*pesh khidmati*) along with five hundred elephants with fifty lakhs of rupees as tribute (*peshkash*) and a fixed annual *pishkash*...  
...the daughter of the Raja was sent to join the body of the imperial slaves with

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<sup>126</sup>Agent, Bareilly, to Ch. Sec. to GOB, 3 May 1811, BC F/4/369/9221.

<sup>127</sup>Niccolao Manucci, *Storia do Mogor*, trans. W. Irvine, (reprint Calcutta, 1966), II, pp. 38-9.

<sup>128</sup>Francois Bernier, *Travels in the Mogul Empire*, trans. A. Constable, revised V. Smith (Milford, 1916), p. 135.

<sup>129</sup>*CPC*, V, no. 1407, p. 306.

three lakh tolas of gold....<sup>130</sup>

But if we adopt the stance that the term *beti* is also a term for a female slave, then various stray observations begin to become coherent like W. Bolts' comment on the writers or the counsellors of the Company to whom the rajas and zamindars 'offered one of his daughters for the seraglio of an English collector, upon the adjustment of his Bundobust'.<sup>131</sup>

Unfortunately, both the pundits and the officials have been responsible for the representation of these as the highest form of 'marriage'. In the initial chapters that went into the making of N.B. Halhed's *Code of Gentoo Laws*, amongst the five forms of 'marriage', is one described as the Deeyb, described as the 'Duchneh [dakshina]' given to a Brahmin who has been 'procured to pray' to the deities of the householder, in return for which they 'adorn their daughter with fine ornaments and handsome Cloaths, and give her' to the Brahmin 'in lieu of the present'.<sup>132</sup> The gift of the daughter valorised in current social anthropology is not what is being defined here: the priest is in the position of servant and moreover, the nature of the daughterhood is problematised by the fact that she is given 'as payment for services rendered'.

Such tracts also point to the numerous occasions for the transfers of slaves between holders, most of which may have occurred outside of a market-place. A typical instance is that of ritual occasions. One indigenous narrative of the funeral rites of the Raja of Dhar in the early summer of 1857 noted that among gifts to the 200 eminent Brahmins were 'four horses, three camels, ten bullocks, nine buffaloes, thirteen *das*'.<sup>133</sup> Similar gifting appears to have occurred in Dinajpur in the late eighteenth century, except that the narrator may have been misled by indigenous terms. Describing the gifts to the Brahmins on the occasion of the funeral rites of the 'Hindus', Walter Hamilton said that the 'wives' of the Raja had been given to the Brahmins.<sup>134</sup> Apart from this ritual gifting of slaves, there were testamentary transactions upon the death of a

<sup>130</sup>S. Moinul Haq, *Khafi Khan's History*, pp. 157, 170.

<sup>131</sup>William Bolts, *Considerations on India Affairs; Particularly Respecting the Present State of Bengal and its Dependencies* (London, 1772), p. 162.

<sup>132</sup>President and Council in Bengal to Court of Directors, 24 March 1774, in *Proceedings of the Governor and Council at Fort William Respecting the Administration of Justices amongst the Natives in Bengal* (London, 1774), p. 91.

<sup>133</sup>Vishnubhat Godse, *Majha Pravasa*, ed. D.V.Potdar, (reprint Pune, 1974), pp. 28-29.

<sup>134</sup>Walter Hamilton, *A Geographical, Statistical, and Historical Description of Hindostan and the Adjacent Countries* (London, 1820), p. 102.

holder, by which slaves were passed from one holder to another.<sup>135</sup> Alongside this were the transfers of human beings in lieu of fines, in payment of a debt, and so on.

The anthropological discussion, following from the textual one, has concentrated on the components of the 'gift' aspect of the transaction, rather than on the kind of 'daughterhood' or 'sonship' involved. Since classical texts are silent about the various types of daughters, in contrast to their eloquence regarding various types of sons (*dattakputra*, *palakputra*, and *poushyaputra* to name only a few), so too are the ethnographers. Are we then to infer that metaphoric daughterhood was absent from Indian history?

If we answer in the positive, both nineteenth-century, and later, descriptions of individual and aggregate transfers of such 'daughters' appear inexplicable. The biographer of the Cossimbazar family noted that Krisnanath Nandi chose as a groom for his sister a man whose mother Kshudumani had been sold 'to a well-to-do childless couple for a handful of Kshud or grain'; the latter then gave her in 'marriage' into the family of the Mathrun Nandys, a family of *lathials* (armed servants) who also cultivated lands on the Nandi estates.<sup>136</sup> A former police official, author of a series on criminology in Bengal, wrote approvingly of the institution of the *noukar meye* - the boatloads of girls brought from various different provinces and sold as wives to men who were not very distinguished in rank (*akulin*).<sup>137</sup> The reasons for his praise of this institution lay in the fact that it acted as a great levelling principle; these girls, regardless of their *jati* assumed the ranks and identities of their husbands (*svami*). Yet another chose precisely the criterion of disregard of the girls' *jati* to condemn this institution of the *noukar meye*. Speaking of the ways in which 'brides' could be had without the payment of a heavy *pana* (bride-wealth) to the bride's father, he said,

People take a boatload of Bangshaja girls. They may not be Brahmins at all but they are passed off as such and Bangshaja bridegrooms buy these girls from out of the boatload... poor people buy these girls. Instances have been known when Mahomedan girls sold out of the boatload have been passed off as Bangshaja girls. One such girl after her marriage ordered the servant to bring a *cherag*, which is a Persian word for lamp...On cross-examination she was discovered to be a Mahomedan but she was not driven away by her husband and she remained in the family, as such a procedure would have entailed a loss of caste, and the

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<sup>135</sup>See deed of transfer of the slaves of the deceased Chiranjiba Barakaistha to Rajguru Sarbananda Goswami by the Maharani of Cooch Behar, 1783, in Amanatullah Ahmed, 'Slavery in North East India', *Indian Historical Records Commission* (henceforth *IHRC*), pt. II, no. 23, 1946. This was a predominant method of transferring slaves among the households of British officials in the late eighteenth and early nineteenth century.

<sup>136</sup>Somendra Chandra Nandi, *History of the Cossimbazar Raj in the Nineteenth Century*, (Calcutta, 1986), I, p. 268.

<sup>137</sup>Panchanana Ghoshal, *Aparadha Vijnana* (Calcutta, 1954), III, p. 244.

matter was hushed up.<sup>138</sup>

Oral sources in contemporary Bengal have also confirmed the existence of this institution. One informant<sup>139</sup> remembered that the term *bhanrar meye* was used to describe those boat-loads of young girls brought from distant villages within Bengal for the marriage of the boys of poorer families in Bengal. Her explanation of this phenomenon was also articulated in terms of the fact that grooms had to pay *pan* in Bengal; therefore, she said, the 'marriage-*ghataks* and *dalals* (middlemen, brokers) bought girls from those areas where the prices of girls were low and sold them where they were high.' But was this the domestic slave-trade? The answer provides us with a possible gauge for distinguishing the isolation of the 'slave/wife' from other wives: where the latter continued to have claims upon natal kin for redress of wrongs and retained visiting rights, and their children had both sets of kin, the former did not. As this informant put it, 'these girls never again in their lives saw their *atmiya swajan*' (relations).

Such descriptions of the institution evince a clear distinction between bride-wealth payments (*pan*) and slave-purchase, which appeared to have co-existed within the range of marriage strategies, and of household formation. Then when and why did the confounding of the two occur? Did it begin with Rammohan Roy's rhetorical contests with other pundits? Referring to the Vedic proscription of 'an acceptance of money or of a present' in the marriage of a daughter, he contrasted it with 'the sale of female children under pretence of marriage [which] is practiced by nearly two thirds of the Brahmuns of Bengal and Tirhoot, as well as by their followers generally'.<sup>140</sup> However, he was not the first to point to this. Anandibai, the wife of Raghunath Rao (Raghoba) is said to have informed her nephew, Peshwa Madhava Rao, that Brahmuns were selling their daughters in marriage, which was not an auspicious indicator of the state of the kingdom. From around 1800-1801 there exists a directive from the Peshwa Baji Rao II prohibiting all members of the Brahmin *jati* from accepting any money from potential grooms for the marriage of their daughters.<sup>141</sup> Yet, before we hold these indigenous discussants responsible for the conflation of bride-wealth and sale transactions, we would do well to probe the conditions under which such orders were promulgated. One such condition was the co-existence

<sup>138</sup>Basanta Coomar Bose, *Hindu Customs in Bengal* (Calcutta, 1929), pp. 33-34. Emphasis added. From the Introduction it appears that this book was written in 1875.

<sup>139</sup>Smt. Amita Guha, personal communication of 23 Sept. 1994.

<sup>140</sup>Rammohun Roy, *A Second Defence of the Monotheistical System of the Veds in Reply to an Apology for the Present State of Hindoo Worship* (Calcutta, 1817), p. 44.

<sup>141</sup>*Itihas-sangraha*, 7, 1-3, 1915, pp. 260-61. This document refers to a period about 1800-01.

of slavery, and the awareness of all indigenous regimes of the need to regulate it.<sup>142</sup>

### The Significance of Western 'Kinship' for Slaves

Instead of allowing for the complex interweaving of slave-holders' linguistic strategies, Western ideologies of familialism and of productive labour-forms having conditioned the erasure of slavery from the records, historians of Indian slavery have by and large taken what was defined as slave therein, and proceeded to enumerate, compare price-levels, and volumes of transfers. The notions of kinship held by the early Company officials, in some instances, carried on into the work of translation as late as the twentieth century. Witness the exchange between H. Beveridge, the distinguished English civil servant who translated many Persian chronicles, and Shyamal Das, the court poet and historian of Udaipur, over the identity of Jahangir's mother.<sup>143</sup> Such notions of kinship, based on a pathological view of relationships, and the legitimation of domestic authority had serious repercussions for the slaves who resisted, by flight, abuse or refusal to work. The general tenor of regulation, and judge-made law, in the nineteenth century was to restore such fleeing 'daughters' and 'wives' to their respective masters and mistresses. More important, however, were the implications for the strategies of heirship that became the focal point of contests both within important political households and between those households and the East India Company, the apogee of which was the doctrine of lapse in mid-nineteenth century.

The complex of familial metaphor and slave-holding legalism meant that when investigations began (as a result of the abolitionist pressures in Parliament, tied up with the renewal of the Charter in 1833) much was left out of the reckoning. The Court of Directors, in its instructions to the Law Commissioners, recommended that certain social forms be omitted from the ambit of slavery:

There are certain kinds of restraint required, according to native ideas, for the government of families, and forming according to both law and custom, part of

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<sup>142</sup>For a later report on three marts at Gwalior, each of which was 'owned' by different members of the ruling house, at which slaves were gathered and sold, see letter from Resident, Gwalior to Sec. to the Gov.-Gen., 8 June, 1832, BC F/4/1467/57728.

<sup>143</sup>*JASB*, 56, 1, 1887, pp. 164-167 and 57, 1, 1888, pp. 71-75. In the former, Beveridge had admitted his uncertainty about the term *walidah sababi khash* noting only that Elliott had rendered it "his own royal mother". Shyamal Das responded with the correct translation of this term as a 'lady regarded as a mother for some reason' and even pointed out that terms like brother should not be taken literally, for 'relatives of the Rajputs, removed even by ten generations, are called brothers'. Beveridge's dismissal of the explanation appears misplaced, especially since the use of metaphoric kinship for slaves had been commented on by his own compatriot, W. Irvine in 'Bangash Nawabs of Farrukhabad' in the pages of the same journal ten years earlier. Speaking of the four thousand *chelahs* who were referred to as *Tifl-i-sarkar* (sons of the State), Irvine explained that it was a counterweight to the biological and fictive kin of the ruler. See *JASB*, 47, 1, 1878, pp. 279-345; and W. Irvine, *The Army of the Indian Moghuls : its Organisation and Administration* (London, 1903), p. 103.

the rights of the heads of families, Mussulman and Hindoo, which are not to be included under the title, slavery...your remedial measure should generally begin with the cases of greatest hardship.<sup>144</sup>

What some of these forms were can be inferred from the debates in Parliament; in the Commons, the central issue seemed to be the 'harems and zenanas', an intrusion upon which would excite rebellion.<sup>145</sup> Macaulay, Secretary of the India Board, even reassured the House that since 'due regard shall be paid to the laws of marriage; those who live in the zenanas may be considered as coming under this class, the connection in this case is a quasi-marriage'. The simple reduction of the complex and different grades of slavery within the household into 'marriage' relations was convenient for colonial administrators. As Lovejoy and Hagendorn argue, identical strategies in the British colony in Nigeria allowed for the persistence of slave-concubinage while simultaneously curtailing the web of claims and rights accorded them in Islamic law.<sup>146</sup> In the Lords, the Duke of Wellington referred to the female slave in the hut of every [European] soldier in the Indian army, who could not be dispensed with if the Company was to retain its control in India. In a similar vein, Auckland, the Governor-General, in 1841, recommended that sales of children may be prohibited but parenthesised 'the national custom of adoption' as one to be guarded.<sup>147</sup> By 1871, some English judges were even claiming that the 'ordinary "bandhi", or so-called slave-girl,...is not a slave in the legal acceptance of the term'.<sup>148</sup>

Instead of resisting this fiat, all published work on Indian slavery has followed the decree of exclusion set out by the colonial legislators, refusing even to name the practices of concubinage/secondary marriages, or of adoption, as a fundamental part of slave social formations. This has resulted in displacing issues of reproductive politics from the context of a slave-holding society and their relocation within other kinds of historical narratives, like those of the contest

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<sup>144</sup>Extract Public Letter to India, 10 December, 1834, in *Slavery in India: Correspondence (PP)*, 1834, 44, no. 128, p. 70. Emphasis added.

<sup>145</sup>Hansard, *Parliamentary Debates*, 3rd. series, (London, 1833), XIX, pp. 532 and 798-99.

<sup>146</sup>Paul Lovejoy and Jan S. Hagendorn, *Slow Death for Slavery: the Course of Abolition in Northern Nigeria, 1897-1936* (Cambridge, 1993), pp. 111-24; also Paul Lovejoy, 'Concubinage and the Status of Women Slaves in Early Colonial Northern Nigeria', *JAH*, 29, 1988, pp. 245-266.

<sup>147</sup>Minute of the Governor-General, 6 May 1841, in *PP*, 1841, p. 478. In a private letter to Hobhouse, 1 April 1839, however, Auckland had accepted that various officers and magistrates 'only look to praedial slavery...The abominations which grow out of the maintenance of the Jenana and the troops of dancing girls are of another character and for the most part illegal, but from national customs difficult to check....' in British Library, Broughton Papers, Add.Mss. 36473, folio 447. In the same collection is a letter from W.H. Macnaghten, 8 April, 1837, admitting that the condition of female slaves was well known to officials, but '... who is to explore the recesses of the haram?', folio 110.

<sup>148</sup>G. G. Morris, Sessions Judge, Backergunge, to Registrar of the High Court, Calcutta, 14 Nov. 1871, *BJC*, P/246, Dec. 1871, Enclosure in no. 186.



between imperialism and nationalism, or micro-level studies in social anthropology.<sup>149</sup> Partly responsible for the diffidence of the Indian historian of the family and household to name slave-recruitment as a principal aspect of nineteenth-century households has also been the fact that the issues and problems have been conceptualised in the light of a very persuasive and intensively researched historiography of family, kinship and household in Europe.<sup>150</sup> Contrary to the picture Locke and others have given us of the family preceding the state in time, this historiography of the 'new' Western European family proves that both the state and the family as an institution focusing on kinship ties emerged together.

However, while the historicity of the modern European state-system and the family can be established, it cannot be emulated as a model for a history of the state and the family in India.<sup>151</sup> For one, the separation of the state from the family in Western Europe was fundamental to the way an ideology of domestic/ public or private/ public was worked out. As feminist historians have pointed out, though 'public' came to represent the state, marked by power, autonomy and activities of males in Western European thought and social organisation, it did not follow that wherever these dichotomous representations existed the attribution of values was identical. The separation of the state and the family was by no means a foregone matter in the case of the harems of the eighteenth century, as some Western commentators themselves recognised. Though undoubtedly the most prevalent symbol in Western myth-making about 'Oriental despotism', contemporaries like Abbe Carre underlined the political symbolism of the harem. Discussing the king in Bijapur, who had reputedly 1400 women, he argued on the basis of familiar criteria,

as in Europe the magnificence of our Christian princes is shown by a splendid stable of the finest horses from all over the world, so these Eastern princes show their power and grandeur by their seraglios, where they have women brought from

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<sup>149</sup>See, for example, K. Sangari and S. Vaid (eds), *Recasting Women: Essays in Colonial History* (New Delhi, 1989); M. Borthwick, *The Changing Role of Women in Bengal, 1849-1905* (Princeton, 1984); Malavika Karlekar, *Voices from Within: Early Personal Narratives* (Delhi, 1991); Prem Chowdhry, *The Veiled Women: Shifting Gender Equations in Rural Haryana 1880-1990* (Delhi, 1994). For micro-level studies of kinship and marriage, see Lina M. Fruzetti, *The Gift of a Virgin: Women, Marriage and Ritual in a Bengali Society* (New Delhi, 1990); Imtiaz Ahmed (ed.), *Family, Kinship and Marriage Among Muslims in India* (New Delhi, 1976); Jack Goody, *The Oriental, the Ancient and the Primitive* (Cambridge, 1990); Patricia Uberoi (ed.), *Family, Kinship and Marriage in India* (Delhi, 1994).

<sup>150</sup>Lawrence Stone, *The Family, Sex and Marriage in England, 1500-1800* (New York, 1979); Peter Laslett (ed.), *Household and Family in Past Time* (Cambridge, 1972); Eli Zaretsky, *Capitalism, the Family and Personal Life* (New York, 1976); Jean Louis Flandrin, *Families in Former Times*, trans. Richard Southern, (Cambridge, 1979).

<sup>151</sup>For a parallel critique of Eurocentric models for the study of Africa, see Steven Feierman, 'Africa in History: The End of Universal Narratives', in Gyan Prakash (ed.), *After Colonialism: Imperial histories and Post-Colonial Displacements* (Princeton, 1995), pp. 40-65.

every foreign kingdom.<sup>152</sup>

Rousseau's definition of the harem in his dictionary bespoke its organisation 'with the same regularity and good government as the other departments of state'.<sup>153</sup> Another British observer of the eighteenth century, reporting on the 'Zinanahs' of the principal people of Kashmir, concluded that 'the Princes of the country produced this innovation for the purpose of impressing in the minds of their subjects, an awe and respect for their families'.<sup>154</sup>

A related, but unaddressed issue, for the growth of the Western family is that of the prevalence of slavery through the entire early modern period. Unlike the debate, set forward by Eric Williams<sup>155</sup> and participated in by other historians,<sup>156</sup> on the contribution of slavery to the transition to capitalism in the Western hemisphere, there has been virtually no work on the contribution of slavery to the growth of the modern Western 'family'. The rare instances in which this contribution has been acknowledged has been in the context of Western colonial settlements. The centrality of the household, even for the study of colonial slave-societies such as that of South Africa, has been demonstrated there.<sup>157</sup> In the absence of such debate in the case of the family in Western Europe, it is significant that only in the specialised disciplines of ancient history and African slavery-studies, do we confront the close relationship between what has been termed kinship and the political economy. It is to this that we can turn for providing some minimal criterion of slavery.

### **The Dialectic of Kinlessness and Kinship.**

Finley was the earliest to identify slavery, not in terms of juridical definitions, occupational tests or kinds of labour, but in terms of the slave's deracination and kinlessness: an outsider first in the sense that s/he originated from outside the society into which s/he was introduced as a slave,

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<sup>152</sup>Lady Fawcett (trans.) and Charles Fawcett (ed.), *The Travels of the Abbe Carre in India and the Near East* (reprint Delhi, 1990), I, p. 247.

<sup>153</sup>S. Rousseau, *A Dictionary of Words Used in the East Indies with Full Explanations* (London, 1802, this edition 1805), p. 112.

<sup>154</sup>George Foster, *Sketches of the Mythology and Customs of the Hindoos* (London, 1785), p.73.

<sup>155</sup>Eric Williams, *Capitalism and Slavery*, (London, 1944).

<sup>156</sup>Amongst a vast and sophisticated literature, see E.D.Genovese and E. Fox-Genovese, *Fruits of merchant Capital: Slavery and Bourgeois Property in the Rise and Expansion of Capitalism* (New York, 1983); Robert W. Fogel and Stanley L. Engerman *Time on the Cross: vol. I, The Economics of American Negro Slavery*, and vol. II, *Evidence and Methods* (Boston, 1974).

<sup>157</sup>Robert C.- H. Shell, *Children of Bondage: A Social History of the Slave Society at the Cape of Good Hope, 1652-1838* (Hanover, 1988); also Christopher J. Hawes, 'Eurasians in British India, 1773-1833: The Making of a Reluctant Community', Ph.D. Dissertation, SOAS, London, 1993, chapters 1-2.

second in the sense that s/he was denied the most elementary of social bonds, kinship and community.<sup>158</sup> Building upon this, Orlando Patterson arrived at the characterisation of the slave as the person who is held in a state of natal alienation, dishonour and violence. He defined the most distinctive attribute of the slave's powerlessness as originating conceptually as a substitute for death, archetypically for death in war, but equally frequently as commutation of capital punishment, death from starvation and exposure. This conditionally pardoned 'life' was then to be lived in terms of permanent natal alienation, having no socially recognised existence outside of the saviour/ master, and bearing all the symbolic and material marks of a secular excommunication. Such a person was denied all claims on, and obligations to parents and living relations, as well as more remote ancestors and descendants.<sup>159</sup>

Though this redefinition is persuasive, there are some qualifications that must be entered. The idea of slavery as an alternative to death was the moral legitimisation provided by slave-masters and acquirers. For late eighteenth-century colonial judges and officials in India, this was the classic justification. For instance, William Jones, represented his own slave-holding as an act of mercy/charity. Speaking to a jury in 1785, in a case of a murder of a slave girl by Osborne, her English master, he referred to his own holding of child-slaves 'whom I rescued from death or misery'.<sup>160</sup> John Shore, the Governor-General, in the famine of 1788, not only bought up as many 'children' as his servants could find, but also defended his action, in ways reminiscent of his contemporary slaveholders in the West, that he had done this for the welfare of the children themselves. 'Without this,' he wrote to his wife Charlotte, 'many must have died, or have been disposed of to persons who would not have taken as much care of them as I have done'.<sup>161</sup> To use Boswell's term, the 'kindness of strangers' is suspect, when most slave-holders characterised their own purchasing and rearing of children as acts of charity, and conversely, that the sellers were 'saving ...their children's lives, by interesting in their preservation persons able to provide

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<sup>158</sup>M. I. Finley, *The Ancient Economy* (1973, revised edition, Hammondsworth, 1992), *idem*, *Ancient Slavery and Modern Ideology* (London, 1980).

<sup>159</sup>Orlando Patterson, *Slavery and Social Death* (Harvard, 1982), p. 5.

<sup>160</sup>Charge to the Grand Jury, cited in S. N. Mukherjee, *Sir William Jones: A Study in Eighteenth Century British Attitudes to India* (Cambridge, 1968), p. 134; *idem*, 'A Note on Sir William Jones and the Slave Trade in Bengal', *BPP*, 82, 154, 1963, pp. 106-111. One of the slaves he held has been identified as 'Otto', who like the 25 slaves of General Eyre Coote, became a soldier, see R. Llewellyn-Jones, *Very Ingenious Man: Claude Martin in Early Colonial India* (Delhi, 1993), p. 72.

<sup>161</sup>Letter, 22 April, 1788, cited in F. J. Shore, *Memoirs and Life of Lord Teignmouth* (London, 1837), I, pp. 156-7. John Shore referred to this event as the 'increase of my family', yet discussed with pride, not just the prices at which he had purchased them but also the smallness of the expenditure incurred in maintaining 'these brats'. Except one, these 'children' were left with him.

nourishment for them'.<sup>162</sup> In 1836, a judge of Rangpur recommended 'that the transfer of infants, by their parents or natural guardians, should be sanctioned (whether made with or without consideration)... as being the sole cause of preservation of the lives of thousands of infants'.<sup>163</sup>

Colonial semantics of charity, of the rescue of children from death, had serious consequences for the growth of textual law in the eighteenth century, for the separation of 'family' law and laws of 'property', based as they sometimes were, on mistranslation.<sup>164</sup> For such reasons, it is worth pondering over the co-incidence of terms in Colebrooke's, or Jones's, English translations of texts of the eighteenth century. To illustrate this, we could read the *Digest*, for instance, for its list of the various modes of enslavement.<sup>165</sup> It would appear that there was little to differentiate between 'local' and 'colonial' holders' terminologies: it was the arbitrary meanings that have been assigned to each over time that reflected the conflict and tensions between the two. The comments of one British official while discussing the sales and purchases of children in the Muzzaffarpur district of Bihar denote this:

After purchase the condition of these children is often far better than it was before, and though they are considered the property of the master, are not looked upon in the light of a slave,... often acquire property, and in some cases, even attain to great opulence.

The child when purchased is fed and clothed by its master, and when it gets to sufficient age to be of any help, is given a small monthly allowance as well...

To call either one custom or the other slavery would be giving a very wrong impression.<sup>166</sup>

From this arises a second reservation about Patterson's formulation. The correspondence of affective with genealogical kinship (natal ties) is presumed to be already established, rather than one in the process of being so. Colonial observers in India like Forbes appeared to have done the

<sup>162</sup>H. T. Colebrooke, Minute of 1812, BC F/4/1234/40338. This attribution of charity and humanity persisted in the rhetoric of the officials who opposed abolition as late as the 1840s. Examples are the minutes of H. T. Prinsep and A. Amos in BC F/4/1947/84542.

<sup>163</sup>T. A. Shaw, in Report from Indian law Commissioners, (PP), 1841, Appendix II, p. 307.

<sup>164</sup>For William Jones' mistranslation of a Persian term denoting slave-status, 'kaniz', as 'the female of the species': see his glossary in Lord Teignmouth (ed.) *Collected Works of Sir William Jones*, (London, 1807), V, p. 200.

<sup>165</sup>Colebrooke, *Digest of Hindu Law*, II, p. 225. The commentary on Manu, Narada and others by Jagannath, translated into English by Colebrooke, offered this explanation of the term 'anaakala-bhritta' 'Maintained in a famine;'... or, *in other words*, during a dearth; then maintained: that is, whose life has been preserved for servitude by food *then* given.' (original italics). Or, to take another example, 'prapto yuddhat' was elaborated as "Made captive in war;" *one whose* life has been preserved by *his* consenting to slavery, when in danger of *his* life in battle; *and thus* acquired by the conqueror' (original italics).

<sup>166</sup>Offg. Magt., Tirhoot, to Commr., Patna Division, 30 Sept. 1868, BJC, P/433/27, March 1869, no. 9.

same when they characterised slavery both of the royal household and of the humble one as a state in which 'the tender ties of parental, filial, and fraternal affection are dissolved'.<sup>167</sup> Others however suggested that 'kinlessness' was not a question of consanguinity or affinity but of metaphor. Thus the Chief of Chittagong in 1774 referred to the process by which 'any one who is without a father, mother, or any other relation, and who is not connected with any zemindar or other in the revenue or cultivation of the country' sold himself and became a slave.<sup>168</sup>

Clearly, the applicability of Patterson's redefinition is contingent upon the historical records' distinguishing between 'natal' kin and metaphoric kin. In social formations where the idiom of kinship was a paradigm for the representation of hierarchies of power, the metaphoric representation of powerlessness was that of 'kinlessness'. Thus the term 'orphan' or 'foundling' may equally obscure the jural and social condition of the person concerned. Both the early stratagems of the Company (the founding of the Military Orphan Schools, for instance) and the narratives produced by Indians emphasise this correspondence. Thus in 1796, the magistrate of Ramghur chose to believe the petition of one Mohun which said, 'In the year 1191 Fussily... Raddie a young girl, fell near the garden of Ragonautpore under a poplar tree, and was dying - I took her to my house, and nourished her...'<sup>169</sup> The English magistrate described her as the 'adopted daughter' of Mohun, even though it was apparent from the girl's own story that she had escaped from the household and refused to return to it. A document written around 1830 on the succession of the infant ruler of Datia, a state in Central India, had a similar semantic crossover. It went

above four years ago a gentleman was travelling from Gwalior through Nuddeagaon. Early in the morning, the voice of a newly born Infant reached his Ears as he approached that village. He went to the spot and observed an Infant lying in a basket, apparently recently born. The gentleman alighted from his elephant, and observing marks of superior birth in its features took up the child and proceeded to the Royal fort where he delivered over the infant.<sup>170</sup>

As investigated by the British Agent at the Datia court, a particular semantic term like orphan may not refer to a genealogical isolate at all, since the orphan's mother lived in the *zenana* of the ruler, but indicate alienation or isolation of some other sort. Effectively, the ideal of genealogical descent could overlies its absence. Like the narrative of the king of Datia did, theories of divine and other legitimations could be generated precisely because of the dissonance between metaphor and

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<sup>167</sup>J. Forbes, *Oriental Memoirs*, III, p. 168.

<sup>168</sup>Cited in Capt. T. H. Lewin, *The Hill Tracts of Chittagong and the Dwellers therein, with Comparative Vocabularies of the Hill Dialects* (Calcutta, 1869), fn, p. 33.

<sup>169</sup>Translation of Proceedings of Magistrate of Ramghur, BCrJ, P/128/36, 12 Jan. 1798, nos. 8-9.

<sup>170</sup>Memorial of the Raja of Datia, n.d., BC F/4/1498/58823. Emphasis added.

genealogy. The narrative from Datia proceeded 'Considering the infant as the Gift of heaven and myself fortunate in the acquisition I placed it in my bosom and treated it as my son.' This child was to be his successor. Similar divine dispensation, both of children and of kingship, was evident in Bengal. John R. McLane recorded that one of the employees of the Burdwan Raj had told him that Tilakchandra, one of the Rajas, was found as a baby under a hive with honey dripping into his mouth and sustaining him. This was recognised as a divine sign by the employees of the Raj who found him and he was reared in the palace as a son of the childless monarch whom he succeeded.<sup>171</sup>

As evinced by such legends and narratives, the idiomatic representation of isolation-as-kinlessness becomes significant in reassessing the uses to which such people might be put. Scholars of the ancient Near East, like Isaac Mendelsohn, indicate that slavery may have been critical to 'family'-formation itself, when discussing the institution of adoption in early Babylonia.<sup>172</sup> Scholars of interior Africa, especially S. Miers and I. Kopytoff<sup>173</sup> similarly argued that in many African societies, the individual was not only seen as a member of the kin group but also as part of that group's corporate wealth. Neither the criterion of property as defined in Western philosophy, nor that of saleability would be useful in such a context. They proceeded to outline a 'slavery-to-kinship continuum' along which all outsiders/aliens/marginal people (slaves) pass as they were absorbed into kinship groups, which acquired them through a range of transactions including capture and purchase. By insisting that slavery had to be discussed along with other institutions of 'incorporation' within dominant society, like marriage and adoption, without denying the exploitative dimensions of either, this perspective provided for a study of slavery as a *process*, rather than a fixed status of either 'unfreedom' or 'property'.

Anthropologists seeking to apply this model to study slave societies in historical South Asia or Africa disagreed sharply. For instance, James Watson asserted that Miers and Kopytoff's model of an 'open' system of slavery was characteristic only of regions where there was a vast surplus of land and shortage of labour as in Africa; and that this could not apply to Asia where a shortage of land and surplus of labour prevailed. The real issue, it seemed, was not the re-definition of slavery, but the lack of 'fit' between this and older teleologies - critically, that of the 'closed' Indian system of caste and kinship, and of land-ownership. By ignoring the temporal framework within which 'Asian' societies were to be discussed, Watson appeared to be endowing

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<sup>171</sup>John R. McLane, *Land and Local Kingship in Eighteenth-Century Bengal* (Cambridge, 1993), p. 317, fn.27.

<sup>172</sup>Isaac Mendelsohn, *Slavery in the Ancient Near East*, (New York, 1949).

<sup>173</sup>S. Miers and I.Kopytoff (eds), *Slavery in Africa: Historical and Anthropological Perspectives* (Madison, 1977), Introduction.

both slavery and kinship in India with a 'closure' that was only historically achieved.<sup>174</sup>

Claude Meillasoux saw 'kinship' predominantly as part of 'domestic society', where no means of production, material or human, was appropriated. These domestic societies were preyed upon by brigands belonging to military societies, serving 'merchant societies' with 'slaves'. In other words, in Meillasoux's theory, kinship and slavery were strictly antinomic, and where slaves were incorporated at all, it was under 'fictive kin' terms which never endowed them with the true prerogative of kinship i.e. social recognition of their position as genitors. In order to explain the phenomenon found in specific African societies, - that precisely those who were kinless and non-reproducers, like the eunuchs, were also the most powerful, - Meillasoux constructed a disjunction between the 'state' and the 'condition' of slaves.<sup>175</sup> In Meillasoux's glossary, 'state' refers to the social and juridical situation of an individual deprived of status, when 'status' itself is defined by a set of prerogatives enjoyed through membership of a class or order. 'Condition' refers to a person's (or slave's) place in the relations of production and reproduction. Though Meillasoux asserts that the presence of slaves as fictive kin causes the further reification of kinship in those societies, he attributes relations of implicit co-operation and harmony to the realm of kinship, meanings that Kopytoff and Miers had specifically abjured.<sup>176</sup>

Secondly, like Meillasoux, those who criticise the Miers-Kopytoff hypothesis for being 'assimilationist' when slavery entailed permanent alienation and disabilities generally ignore the fact that within each region and social formation a multiplicity of kinship types occur. As indicated already, where slave women were 'married' plural forms of marriage existed : certain forms by which slaves were contracted by free masters had inferior social consequences from other higher forms reserved for isogamous marriages between non-slaves. An instance of this from the Indian evidence is that of *nikah*. In classical Islamic law, this denoted marriage between two free persons. Yet in practice, in both nineteenth-century Bengal and Western India, 'nikah' seems to have denoted inferior marriages, at least one of the parties being a slave. Thus a Mussalman goldsmith who had purchased a 'Siddi' (shorthand for Ethiopian) female at Muscat and brought her to Kutch

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<sup>174</sup>James L. Watson (ed.), *Asian and African Systems of Slavery*, Introduction. In his own investigation of Chinese social institutions, however, he was willing to explore the applicability of the Miers-Kopytoff hypothesis.

<sup>175</sup>C. Meillasoux, *The Anthropology of Slavery in the Womb of Iron and Gold*, trans. Alide Dasnois (London, 1991).

<sup>176</sup>For an incisive review of Meillasoux, see Jonathan Glassman, 'No Words of Their Own', *Slavery and Abolition*, 16, 1, 1995, pp. 131-45; *idem*, 'The Bondsman's New Clothes: The Contradictory Consciousness of Slave Resistance on the Swahili Coast', *International Journal of African History*, 32, 1991, pp.277-312 for discussion of Miers and Kopytoff.

claimed that he had 'contracted Nika (a left handed marriage) as is the practice'.<sup>177</sup> Similarly, where young males were purchased for strategies of heirship, plural forms of agnation-filiation existed, with clear ritual and other criteria. In other words, the Miers-Kopytoff hypothesis allows the investigation of the plurality of kinship forms and meanings, without endowing to them any prior and fixed status. Generally overlooked by critics of this hypothesis is its stress on different aspects of inter-generational and intra-generational incorporation, - the affective, the jural and the economic. As a newly acquired human being, the alien recruit may thus only be metaphorically incorporated, and second or subsequent generations may move towards a more substantialised and complex incorporation within a kin-group and community. This stress on generational change also leaves open the possibility of the persistent recruitment of slaves, and of the cyclicity of metaphoric kinship and marginality at the outer boundaries of the host groups. In other words, the usefulness of this model, especially in the context of the Indian historical records, lies in the permission it gives the researcher for envisioning the slave of the first generation as a slave-holder her/himself over time.

However, the validity of this hypothesis is demonstrable only where the records of host-households are available over a period of time. Obviously, only a tiny handful of households, especially in the colonial context of India, would qualify for this kind of record-keeping: broadly, the erstwhile rulers and princes. The history of one of the most important households in Bengal - that of the Nazims of Murshidabad - offers us a chance to raise these issues as part of the political economy of the region. The choice of the Nizamut is dictated by its obvious pre-eminence both as an outpost of the Mughal empire and its simultaneous role as the fulcrum of the East India Company. Both these aspects are crucial to understanding the transition between a pre-colonial political economy of slavery to a colonial economy based on slave-labour. The first aspect, of the Nizamut as a Mughal formation, was important because the records of the eminent households of this region, like the Debs of Shovabajar or the Nandis of Cassimbazar, the Tipperah and Cooch Behar houses, the Nadia and Burdwan rulers all argue for the persistence of ideals and structures that were identifiable as that of a Mughal, not Islamic, elite. If we could comprehend some of the ways in which slaves functioned in at least one of these households, it would provide us a paradigm for other similar households in the region.

The second aspect of the Nizamut, as a fulcrum of colonial intervention, is important for the articulation of values and structures that the East India Company implanted in the course of the nineteenth century. Most critically, studying the Nizamut suggests the limits of colonial agendas regarding law, both indigenous and Company Regulation. From there to study the

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<sup>177</sup>Translation of deposition of Rehun Toolah taken before the Political Agent, in J. Ogilvy to A. Malet, 7 June 1849, BC F/4/2343/123030. For Bengal, see Chapter II of this thesis.



complicity of colonial machinery in the maintenance of this structure, and even to re-inforce some of its aspects, is the final aim of this project. Since slaves were important to both formations, the colonial and the precolonial, this study in trying to articulate such connections, is obviously Janus-faced. It is thus about two kinds of polities operating with slaves, but reckoning their contribution in very different ways. The refashioning of one by the other is the process that this thesis sets out to study.

### *List of Nazims of Bengal at Murshidabad.*

1. Murshid Quli Khan, 1700-1727 (purchased from Deccan, trained in Persia, and returned to India, served as viceroy of Aurungzeb).
2. Shuja-ud-din, 1727-39 (son-in-law/*damad* of Murshid Quli Khan).
3. Sarfaraz Khan, 1739-40 (son of Shuja).
4. Alivardi Khan, 1740-56 (courtier of Sarfaraz).
5. Siraj-ud-daula, 1756-57 (grandson/son of daughter/ of Alivardi).
6. Mir Jafar, 1758-60 (military commander under Siraj, and brother-in-law of Alivardi).
7. Mir Qasim, 1760-63 (*damad* of Mir Jafar).
8. Mir Jafar, 1763-65 (the same as 6).
9. Nujm-ud-daula, 1765-66 (son of Munni Begum, b.1740s-d.1812).
10. Saif-ud-daula, 1766-70 (mother difficult to identify).
11. Mubarak-ud-daula I, 1770-1793 (son of Babbu Begum, b.? d.1809.)
12. Babar Ali, Nasiruddin, Mubarak-ud-daula II, 1793-1810 (son of Mubarak I by Faizunnissa, referred to in records as Walida Begum).
13. Zainuddin Alijah, 1810-1821 (son of Nasiruddin, mother difficult to identify, married to cousin Ameerunnissa Begum).
14. Ahmad Ali Khan, Walahjah, 1821-24 (brother of Zainuddin, mother difficult to identify).
15. Humayunjah, 1824-38 (son of Nujbunnissa).
16. Faridunjah, 1838-1880 (mother Raisunnissa, aka Sahib Jan).
17. Ali Kadr succeeds but not to the position of the Nazim of Bengal, but to the title of Nawab of Murshidabad.



## Chapter I

### *Political Economy, Kinship and Kinlessness in the Nizamut of Murshidabad*

On 1 November 1880, by an indenture signed between the Nawab Nazim of Bengal, Bihar and Orissa and the Secretary of State, the process begun in 1765 was finally brought to its logical culmination when the Nazim Fareedun Jah agreed to withdraw from affairs of government, in return for a provision for two of his sons and two daughters.<sup>1</sup> Thus was formalised the transformation of eighteenth-century Bengal from a *subah* of the Mughal empire into the fulcrum of a colonial state, and the degradation of the household-polity of Murshidabad into a mere 'family' of a declining aristocracy. The long period in which these changes were substantialised has largely been neglected by historians of the East India Company's conquest of Bengal, who have generally stopped at the death of Nawab Nazim Mir Jafar in 1765 and the succession of one minor son after another till 1770.<sup>2</sup> This cut-off mark is meant to suggest that since political and economic powers passed to the Company, the household of the Nizamut ceased to be politically or socially significant. This is historically inaccurate, given the assiduity with which the Company's government in Bengal tried to retain the penumbra of the Nazims. Implicit within the general historical neglect of the household of the Nizamut are also assumptions regarding ingredients of a polity, the indices of power, the affects of kinship and the significance of law. Contrary to previous studies, this chapter begins from 1770: from this date can be traced the complicity of the Company not only in funding and managing a slave-based polity, but also the attempted transformation of this polity into a 'mere' household of 'family' members.

The instrument of these transformations was fiscal- according to a treaty signed with the Nazim after the Treaty of Allahabad, (by which the revenues of Bengal Bihar and Orissa were divided between the East India Company, the Mughal emperor, and the erstwhile Nazim), the Company was to pay 53 lakhs of rupees annually to the latter. A desire for ideological legitimacy ensured that the Company remained committed to upholding the forms and rituals of the polity, while its financial commitments to stockholders in Britain, its own mismanagement, and erosion of profits through famine, private trade, and other related factors led to the drastic reduction of the amount paid to the Nazim by 1771. The stipend fixed by the Court of Directors, avowedly because of the minority of the Nazim Mubarak-ud-daula, of 16 lakhs was never again restored to the amount promised in the treaty of 1765. This reduction of the annual payments to the Nazims initiated a policy of retrenchments, which gained fresh impetus from the wars of the late

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<sup>1</sup>For copy of the agreement see L/P&S/18/D 40.

<sup>2</sup>D. N. Banerjee, 'The Accession of Nazm-ud-Dowla to the Throne of Bengal and the Position of the East India Company', *BPP*, 60, 1941, pp. 19-34; Niharkana Majumdar, 'Bengal Politics in 1765', *BPP*, 75, 1956, pp.98-117; Nanigopal Chaudhuri, *Cartier, Governor of Bengal, 1769-1772* (Calcutta 1970).

eighteenth and early nineteenth century, involving the Company in further financial straits, and creating the need for 'savings'. Thus between 1773 and 1818, there were at least five committees appointed by the Government in Bengal to detail the minutiae of expenditures of the Nizamut.<sup>3</sup> Though portrayed as attempted repayments of 'debts', secret instructions to various Committee members suggested that such measures were not only political ('abridge the sources of the Nazim's state and dignity as Nawab of Bengal') but also economic. For from 1775, the Company had tried to effect the 'saving' of specific stipends like that of the reigning Begum, which were very substantial. The monitoring of Nizamut expenditures was thus directly related to the Company's efforts to create a Deposit fund, entirely in the management of the Company, and made up of 'lapsed' stipends and allowances. The Nizamut Deposit Fund, created in 1818, provided the Agents and Collectors of the Company the single most important lever with which to refashion the Nizamut. From these funds came the salaries of various English military officers and civil servants of the Company, resources for building new palaces, a Nizamut College, experimental horticultural gardens and a new Imambara. Thus while these Deposit Funds allowed the Company to pay itself, it also enabled it to behave as a 'feudal overlord' apparently redistributing to the populace the revenues it had extracted, distributing largesse and loans to various members of the Nizamut itself.

Every retrenchment of expenses, and every addition to the Nizamut Deposit Fund, was guided by an ideology of kinship. For instance, the Committee revising pensions of the household in 1801 was instructed to give a 'preference to those who are connected with it by the ties of consanguinity or who are related to the predecessors of the late and former nabobs over persons who derive their pensions solely from favour....'<sup>4</sup> The repeated attempts to fix standards of consanguinity according to models derived from European aristocratic genealogies, the terminologies of descent, filiation, and legitimacy, had various consequences for the recreation of the kin-based polity of Murshidabad. This chapter attempts to outline some of the principles along which the household-polity was organised and functioned during the period in which it was under duress, including the fundamental relationship of the harem to the structures of rule. The first two sections of the chapter are devoted to an examination of the relationships in the predominantly 'male' world of the Nizamut, and the potentials for conflict within this world. These conflicts and relationships, in turn, represented the playing out of the hierarchies refined and reproduced in the inner world of the Nizamut. The following sections examine the structures of the harem, and the material economy of the household upon which the Company's Agents tightened their grip through

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<sup>3</sup>For a summary of the Government's attempts over the period 1790-1816 to establish and maintain 'a due restraint over the disbursements of the Nizamut' see note by N. B. Edmonstone, 25 March 1816, BPC, P/120/45, 23 July 1816, no.1.

<sup>4</sup>Copy of Instructions to Committee of Nizamut Affairs, 26 Dec. 1801, BC F/4/101/2376.

the reworking of controls in the 'outer' spheres of the polity.

### **The World of Males - the Nazims, Kin and Slaves.**

As Eaton notes, the model of imperial authority projected from the Mughal court drew on both indigenous and Perso-Islamic notions of kingship, in which the sovereign represented the centre and apex of virtue, order and dignity.<sup>5</sup> The symbolic translation of this political universe rested upon a minutely regulated access to the person of the ruler: he appeared in public on a raised platform, indicating elevation but also distance from the mass of the audience. Duplicated in miniaturised form in Bengal from the time of Jahangir, the governor's *jharokha* also consisted of a window and enclosed space built on a platform elevated some twelve feet above the ground. Behind the window and raised above those in the garden below, the governor received those admitted for audience. Also in imitation of Mughal practice, the precise position of each member relative to others would be indicated by the degree of distance from the *jharokha* - those closest to it were understood to be high in the ruler's estimation and those furthest away the least. Contemporary observers knew the nuances of this code; for instance, describing the ceremonies of a 'sacred day' at the Nawab's palace in Murshidabad, Orme described the fastidious observance of decorum by the 'great men' assembled to pay their respects to the Nazim.

The Europeans were placed near the Nabob's person...directly opposite to the Nabob, a fountain was playing. The Moors who entered, approached no nearer than just before the fountain, there made obeisance, and then returned to their seats.<sup>6</sup>

At other times, when the ruler journeyed from the palace, for instance, an equally elaborate system of avoidance and deference was expected from subjects. As one uncomprehending English surgeon found one evening on his way from Murshidabad, the reins of whose horse were seized by the servants of the Nazim, that he

must not proceed further but dismount, and remain by the road side, till His Highness who was coming that way, had passed by ... the Nawab passed me in an open palanquin or Nalkee, and being personally acquainted with His Highness, I addressed him, but he either did not or would not hear me.<sup>7</sup>

What the surgeon had unwittingly observed was the symbolic expression of a code which both projected and protected the seclusion and sacredness of the person of the Nazim as a surrogate of the Emperor. This was transmitted in a variety of gestures and objects. Cloth, ornament or armament that had touched him when bestowed upon a subordinate, marked the

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<sup>5</sup>Richard M.Eaton, *The Rise of Islam and the Bengal Frontier, 1204-1760* (London, 1993), p.160.

<sup>6</sup>Orme's *Historical Fragments of the Mogul Empire, of the Morattoes, and of the English Concern in Indostan* (1782, reprint Delhi, 1974), pp. 273-74.

<sup>7</sup>R. Burt to G. Swinton, 20 July, 1830 in *Murshidabad Nizamut: Letters Received* (ed. J. Datta Gupta and S. K. Bose, Calcutta, 1969), II, 1807-55, (henceforth *MNLR*), p. 213.

latter's entry to power, by displaying his proximity to the throne. This lay at the heart of the rituals of incorporation and distinction like that of the granting of *khilat*; by the eighteenth century, cloth that had come from the Nazim's wardrobe, symbolising his touch, was considered enough for the transformation to be complete. At the same time, the *khilat* that represented the favour of the ruler also indicated the place of the recipient in the political hierarchy of deference and dependence. The distinction between different types of *khilats* - the seven piece one or the five piece - marked the status of the recipient because it showed the degree of closeness with which the ruler wished to honour him. As one moved closer to the throne, one partook more and more of the features of sovereignty: thus the seven-piece *khilat* not only gave 'more' but also was richer in content. Every ritual of incorporation was thus simultaneously one of differentiation as well.

Similarly, food had conative aspects. To eat the salt of a person was to acknowledge the protection of the giver in exchange for the complete loyalty of the recipient. Within the corps of Mughal officers, salt was understood as a substance either ceremonially or metaphorically accepted and eaten at the hands of the emperor, binding members of the imperials corps horizontally to one another and vertically to the emperor, expressing corporate solidarity along with submission. Since salt metaphorically, and food literally, sustained life, accepting it conferred a relationship between giver and recipient, by which the only return that the recipient could make was that life itself.

Manipulating the symbols of both food and cloth marked political and social hierarchies, and was thus critical to the maintenance of authority, as we shall see below. However, food and cloth participated in a wider code of honour and deference, in which many other emblems also operated in symbolic fashion to indicate status - the terms of address, the style of transport used. The alleged infringements of this code revealed the tensions and fractures in the polity. The conflicts over dignities and honours was a window on the state as well as the effects of proximity to the Nazim. Affinity or consanguinity were immaterial in such considerations for many of the contests over the symbols of honour and power occurred not between strangers and the Nazims but between those who in the Western European sense of kinship, were closely related to the Nazims, like uncles, brothers and sons, as much as with those in the position of mothers and grandmothers. An illustration of this is the effort of the Nawab of Dacca, whose younger brother Shamsuddaula was married to the daughter of the Nazim Mubarak-ud-daula I, to obtain permission to use a *nalkee*. Upon the Company presenting him with one, the reigning Nazim protested thus,

except that the Nobab Muzuffur Jung as Naib of the three Soubahs of Bengal, Bahar & Orissa [...] obtained the Royal sanction for using a Nalkee to this time neither the Subahdar of Patna nor the Naib of Dacca ever asserted Pretensions to this mark of Distinction ...Nussurut Jungs Position is not such as to give him a claim to such high token of Consideration.<sup>8</sup>

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<sup>8</sup>Translation of a letter from the Nawab, 2 Jan. 1809 in *Murshidabad Nizamut, Letters Issued* (ed. J.Datta Gupta and S. K. Bose, Calcutta, 1965) I, 1802-31, (henceforth *MNLI*), pp. 117-18.

Similarly the erection and use of the *nahabat* by Walida Begum was interpreted both by the Nazim and the British Agent as a challenge to the authority of the former.<sup>9</sup> Or, as in 1824, the very fact that the head of the *mehalserai*, Ameerunissa Begum, had fired her musketry after the firing of the Nazim's artillery and musketry to observe the ceremony of Id, aroused the Nazim to accuse her of 'insulting his dignity by infringing a rule of the deepest importance'.<sup>10</sup> On this occasion, the chief obstacle to a reconciliation between the Nazim and the Begum became the terms of address to be used by the latter: to the 'astonishment and serious vexation' of the Agent, she refused to send her 'Bundugee' to the Nazim, considering this mode of due submission, 'so great a degradation' that she threatened to die if it was insisted upon. She preferred instead on sending 'Salaam', which in the words of the Agent denoted 'the mode of an address that of an equal'.<sup>11</sup>

Contrary to the given notions of political formations dominated by kinship, the claim to share in power, manifested in the use of certain insignia, privileges and forms of address, by virtue of a blood tie was specifically guarded against. Partly as a consequence of the intervention of the East India Company, and partly for reasons linked to the patterns of reproduction in the Nizamut, older patterns of accession to the throne were overturned, but still exercised an influence on the minds of many potential contenders for the throne, like brothers and uncles. At least in Murshidabad, the absence of fratricide in the mid-eighteenth century seems to be explicable in terms of the possibility of succession devolving collaterally. As the brothers of a deceased Nazim reminded his son,

we are not among the dependants or distant connections of the Nizamut, We are the sons of His late Highness...& are therefore in the first degree of relationship to this House. And every one of us, in the event of fortune so favouring him, has a right to succeed to the musnud.<sup>12</sup>

This was no empty threat: to the *musnud* of Murshidabad between 1765 and 1770, three brothers had succeeded each other, Najm-ud-daula, Saif-ud-daula, and Mubarak-ud-daula I. (See List). Upon the death of the latter in 1793, it was true, his eldest son, Babar Ali, had succeeded him, but this was possible only because the ruling female Regent, Munni Begum, had overruled Mubarak's own preference for a younger son, Abul Qasim Khan, better known as Meer Munglee to his family. In continuation of this pattern, therefore, when Babar Ali died, she recommended the 32-year-old Munglee to the throne, in preference to a son of the deceased Nazim, and cited not just the patterns of collateral succession in Rajmehal and Purnea families but also that of 'the

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<sup>9</sup>G. Swinton to AGG Martin, 30 Sept. 1818 in *MNLR*, II, p. 163.

<sup>10</sup>W.Loch to A.Stirling, Persian Sec. to Govt., 14 August, 1824 in *MNLI*, I, p.307.

<sup>11</sup>Ibid.

<sup>12</sup>Enclosed in R. Rocke to P. Monckton, Persian Sec. to Govt., 15 Nov. 1810, BC F/4/372/9258.

present Nabob of Oudh, Saadut Ali Khan'.<sup>13</sup> The Government of Bengal defended its upholding of the principles of lineal succession and primogeniture on the grounds that it was according to the 'usages of Hindostan', the 'principles of the Mussulman Law' and the 'practice of all countries, Governments and Principalities'.<sup>14</sup> In effect lineality and even primogeniture were not definitively established in Murshidabad till 1838. Quite separate from the interests of the Company in promoting an infant son to the *musnud* at various points, over the claims of senior and collateral candidates, the reversion to collateral succession occurred again in 1821, when the Nazim Alijah was succeeded by his brother Walajah, with the support of the Company.

Nevertheless, the Company's efforts at fixing a principle for succession were a composite of ideological and pragmatic concerns. Working with notions of pedigree, consanguinity, and ideas of aristocratic classes derived from another locale, the Company could hardly have put these ideas in place except as a response to the different factions within the Nizamut from the eighteenth century itself. To understand the structures of faction-formation in the Nizamut of the eighteenth century, the composition of the court, especially the persons surrounding the Nazim was a key. In response to a letter from Munni Begum, who sought to procure the office of *Meersamani* to the Nizamut for the son of Syed Alli Khan, the previous holder, whom she described as 'nearly related to the late Nawbab Mobarcku-dowla' and had found it bestowed on Imaun Kooly Khan, who she claimed had no 'claims of service or long dependence upon this house', the Governor-General, Shore, wrote to the Nazim Babar Ali.<sup>15</sup> The British intervention in the struggle between the Nazims and the respective heads of the *mehalserei* over the control of offices and their perquisites, through the appointment of men who owed allegiance to one or the other alone, was based on a significantly different ideological ground.

The Governor-General's instructions to Nasir-ul-mulk conveyed the range of aspirations that the Company entertained for the institution of kinship: both purposes of economy and the 'custom of Hindostan' would be answered by admitting the claims of the Nazim's 'own Family and [...] relations to hold whatever offices they are fit for'. What was being insidiously urged was a notion of kinship at odds with the one characteristic of the Nizamut. For, as the descriptions offered by the Nazim illustrate, it was the content of kinship that was at stake. Referring to Mirza Koka, whom the Governor-General had objected to, as my 'late father's foster brother' and subsequently as 'the son of the Nabob Mobarukuddowla's Nurse', the Nazim justified the latter's proximity to the throne on the grounds that 'He has been bred up in this family from his

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<sup>13</sup>Letter from Munni Begum, recd. 17 May, 1810, enclosed in Minto and Colebrooke to the Court of Directors, 30 May, 1810, BC F/4/312/7142.

<sup>14</sup>N.B.Edmonstone, Chief Sec. to Govt., to Munni Begum, 26 May, 1810, Ibid.

<sup>15</sup>John Shore to J. E. Harington, 3 Feb. 1795 in *MNLR*, (ed. J.Datta Gupta and S.K. Bose, Calcutta, 1964), pt. I, 1793-1856, pp. 15-16.



childhood, always attended on my late father and now continues to attend on me...in consequence of his long dependence upon this family'.<sup>16</sup> Having failed to convince the Nazim to appoint his 'relations' to posts in the Nizamut administration, Shore wrote to Munni Begum darkly threatening 'to adopt other measures' to bring the recalcitrant Nazim around.<sup>17</sup> These measures were fully worked out under subsequent Governors-General, beginning with the appointment of a Committee to enquire in to the distribution of stipends in the Nizamut in 1796 and again in 1800-01. The copy of instructions circulated among the members of the last committee<sup>18</sup> laid down the principle that

the credit of the family is concerned in giving a preference to those who are connected with it by the ties of consanguinity or who are related to the predecessors of the late and former Nabobs over persons who derive their Pensions solely from favour.<sup>19</sup>

The Nazim's privileging of those 'bred' in the family, the ties of milk and food that mediated relationships between men, over and above blood-ties, was incomprehensible to British officials who could not fathom the malevolence of kin, and the tenderness of the sense of honour among them. Few knew, or cared about, the reasons for the 'perpetual jealousy and animosity' they found in operation between the Nazim and the other members of the Nizamut. This bloodless contest among those who were deemed to have shared blood, to use the terms employed by Ahmutty, the Commissioner appointed to investigate the matters of the house in 1821, involved a range of strategies, from the withholding of pensions and allowances, withdrawing exemptions and privileges, razing homes and even physical confrontations between groups of personal bodyguards and attendants - all of which created an 'incessant succession of broils and confusion'.<sup>20</sup> Most typically, it centred around the refusal of deference, which was related to the absence of personal

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<sup>16</sup>From Nasir-ul-Mulk, May 1795 (covering letter missing), *ibid.*, pp. 22-23.

<sup>17</sup>Enclosed in Edmonstone to Harington, 19 August 1795, in *MNLR*, I, p. 25.

<sup>18</sup>They were Thomas Pattle, Chief Judge, and by virtue of his seniority the President of this Committee, Edward Colebrooke, Richard Rocke, also judges of the Court of Appeal and Circuit for the division of Moorshedabad, and Thomas Hayes, Collector at Murshidabad. Simultaneously, T. Pattle was appointed the Superintendent of Nizamut Affairs. His brief was to be concerned with 'such portion of the Nizamut stipends as is now disbursed or to supervise the payment of the stipends and to see that they are regularly and properly disbursed to the several persons to whom they are payable', and 'to interfere for the accommodation of disputes and dissensions among the Dependants and Servants of the Nizamut' and between them and the Nazim and Munni Begum, and of 'differences which may arise among the members of the Family'. Extract BPC, 22 Oct., 1801, BC F/4/101/2376.

<sup>19</sup>Edmonstone to Pattle, Colebrooke, Rocke, Hayes, 24 Dec. 1801, *ibid.*

<sup>20</sup>J. Ahmutty to A. Stirling, Persian Sec. to Govt., 17 Sept. 1822, BC F/4/851/22643. For individual confrontations between sons of Mubarak-ud-daula I and the Nazim Walajah, see BPC, P/123/4, 11 April 1822, nos. 131-2 and 24 April, no. 21; P/123/9, 7 June 1822, nos. 58-60, P/123/59, 27 Feb. 1824, nos. 45-47. For confrontations between Nazim Mubarak Ali Humayunjah and other male kin see BC F/4/1475/57976 and F/4/1522/60090A.

attendance at the Court. It was said of the 'uncles' of one Nazim that they 'were excluded from the presence, having the misfortune of labouring under His Highness's displeasure'.<sup>21</sup> Yet another Nazim, determined to defend his dignity, requested the Agent to direct his relatives 'to pay the respect due to him'. Upon this, the latter reiterated the ambition entertained by Shore, 'of his having his relatives and the members of the Nizamut family occasionally about him, which would secure their paying him voluntarily that respect which they might not yield in acquiescence to the Agent's order'. But the Nazim would have none of that, declaring that 'he did not care about them, that they were all his enemies'.<sup>22</sup>

The fabric of kin-based European polities required that administrative posts and significant emoluments were garnered by those who theoretically claimed relations of affinity or consanguinity to the rulers. The fact that various kinds of male kin and affines in all the different accounts of the Nizamut between 1773 and 1834 appeared, as *sahebzada* and *aqriba*, to have monetary claims upon the Nazims, made these male kin appear to British officials the appropriate figures to perform 'functions' commensurate to their stipends. Yet virtually no polity in eighteenth-century India fitted into the paradigm generated from Western European aristocracies. A convergence between affective and jural kinship, and administrative functions was always a matter of human manipulation, and not of biological fiat. As the Nawab of Furruckabad put it in 1787, refusing to make his brother the Diwan of his administration preferring his brother-in-law, 'it is an established custom among all the chiefs of Hindustan not to invest a brother or a son with the management of their affairs nor to entrust any of the said persons with the office of the naib'.<sup>23</sup>

As such comments reveal, it was not just the potentialities of succession that created the antagonism between individual Nazims and their male kin, but the substance of administration and finance. Most of the important posts and offices were the focus of these contests. The implication was that the initiative for nomination to such administrative posts came from among those men whom the Nawab Nazim surrounded himself with. In each generation, different combinations of friendship and favour were tried out, and every Nazim could thus be accused of having upset the arrangements of his predecessor. For instance, while Mir Jafar and Mubarak-ud-daula I continued to strengthen their faction with sons-in-laws and brothers-in-law from one family, (Mirza Daood was the son-in-law of Miran, first-born son of Mir Jafar, Daood's son Khalilullah was the son-in-law of Mubarak-ud-daula and his Diwan, and Khalilullah's son, Mirza Jalil, was also brother in law of Mubarak-ud-daula), the same affinal kin fell foul of the succeeding nazim, Babar Ali, in 1794. Accusing Khalilullah Khan of trying to place another of his brothers on the *musnud*, the

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<sup>21</sup>Welland to T. Brooke, 21 Feb. 1812, in *MNLR*, II, p. 74.

<sup>22</sup>AGG Caulfield to H. T. Prinsep, Sec. to Govt., Poll. Dept., 8 August 1838, in *MNLI*, II, p. 230.

<sup>23</sup>Diler Himmat Khan to Council, *CPC*, VII, no. 1112, p.312.

Nazim Nasir-ul-mulk charged the erstwhile Diwan and elderly affine of having violated the 'established customs of courtesy', of not signing the pension bills, of not giving in his accounts, and in a final riposte, 'In spite of his position as a servant Khalil Allah Khan addresses him (writer) as his equal'.<sup>24</sup>

It was this tension between blood-related kin, brothers and uncles, and the fluctuating claims of specific affinal kin, that created the need for having closest to the Nazim those who depended on him alone, and not those who could base their claims to the *musnud* by virtue of the depth of their descent, from previous Nazims or even from other ruling princes. The best qualified for such proximity were the slaves of the house, from whom deference could be extracted without any loss of honour to them for had not the Nazim in fact bestowed it on them, through the *khilat*, food, and title to office? If his honour lay in seclusion, and regulated access to his person, as did the honour of all those who claimed to be related to him, the visibility of slaves near the person of the Nazim alone ensured a living screen around him. From them alone could be derived that allegiance to the ruler that his natal kin did not owe him, for slaves alone were that perfectly kinless people so valued in a kin-structured polity. It was because they 'owed' their lives to the ruler that they could be employed to guard him from the assaults of those enemies within.

Though the sanctity of the person of the ruler was central to political ritual, few Company officials realised that this determined the function and nature of slaves in the retinue and administration of the ruler. This incomprehension was evident in the efforts of Cartier and the Council at Calcutta to diminish the *sowar* (bodyguard) of the Nazim: Clive had referred to them as the 'military rabble' but the Nazim had described them as 'old confidential servants ... fixed upon the Doors of the Mahul'.<sup>25</sup> The composition of the *sowar* of the Nazims has never been studied in detail, but from the contemptuous terms in which the slaves surrounding the Nazim were invariably referred to by the officials of the Company, it seems not improbable that a certain proportion of the *sowar* were also slaves. One reason for inferring this is the details of the dispute of 1795, when John Shore vaguely referred to the 'persons of low rank and characters' upon whom the Nazim Mubarak-ud-Daula II (Babar Ali, Nasir-ul-mulk) had 'bestowed Khillauts, Titles and allowances' and thereby exceeded in his monthly charges the amount of his income.<sup>26</sup> Some of the men referred to were slaves, many of whom were listed under the heads of 'Shagird Peshā' and 'Mulaziman Intiazī' in the accounts of the Nizamut. For instance, there was Mahomed Hellall, described by the Nazim Nasir-ul-mulk as an 'ancient Chela (or Domestic) and faithful servant of my Grand Father... all the receipts for salaries &ca. are authenticated by his seal, all the

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<sup>24</sup>CPC, XI, no.115, pp. 24-5.

<sup>25</sup>Cited in Abdul Majed Khan, *The Transition in Bengal 1756-1775, A Study of Saiyid Muhammad Reza Khan* (Cambridge, 1969), p. 286.

<sup>26</sup>Shore to Harington, 3 Feb., 1795 in *MNLR*, I, pp. 15-16.

Sunnuds, Jewels and the Privy Seal remain under his charge'.<sup>27</sup> Unfortunately, the clarity of this description of the holder of the post of Darogha Khazana is not paralleled for all the other posts and offices that male slaves held in the Nizamut. So even though accounts of 1773 and 1802 list numbers of slaves paid from the Nizamut *behla* accounts - the latter listing 93 Hindustani *chelahs* (slaves), 33 'Coffree' slaves and three other kinds of slaves - the specific offices held and performed by them are rarely mentioned alongside, except in instances of dispute (like the dispute over the office of the custodian of the Imambara, held by Hosseini Chela, the slave of the Nazim Nasir-ul-mulk). Nevertheless, the physical proximity of male slaves to the person of the Nazim, in the most intimate situations of bodyguards and attendants of his creature comforts, was evident in descriptions of one official of the final moments in a Nazim's life:

His Highness's last directions were that those Khwasses who had always attended upon him should wash and purify his corpse, and after clothing him, with the binding sheet of Karbala, should inter him... He desired the Khwasses to fetch clean clothes... to remove out of sight the close stool.<sup>28</sup>

#### **Between Male and Female Worlds: Androgynous Anti-kin.**

Many offices were however explicitly associated with slave-eunuchs, or *Khajaserai*. Though associated in lay minds with Islamic polities alone, the fact was that eunuchism, like slavery in general, had existed in classical Rome and Greece, as well as in ancient China,<sup>29</sup> long before the rise of Islam.<sup>30</sup> Nor does it appear that Islam 'endowed the employment of castrated men with its own special character'.<sup>31</sup> This is important to emphasise particularly in the context of Indian history in the eighteenth and nineteenth centuries. If the presence of eunuchs was an indicator of Islam, then we would have to characterise many of the Rajput polities in western and northern India which used eunuchs in identical ways as Islamic.<sup>32</sup> The earliest reference to eunuch-officials

<sup>27</sup>Translation of remarks of the Nawab Nazim on the statements of proposed retrenchments submitted by the Nizamut Committee, n.d., Doc. F, in BC F/4/250/5602.

<sup>28</sup>Ahmatty to Sterling, 17 Sept. 1822, BC F/4/851/22643.

<sup>29</sup>See Mary M. Anderson, *Hidden Power: the Palace Eunuchs of Imperial China* (Buffalo, 1990); Taisuke Mitamura, *Chinese Eunuchs: The Structure of Intimate Politics* trans. C.A. Pomeroy (Tokyo, 1970) and C. M. Wilbur, *Slavery in China during the former Han Dynasty 206 B.C.- A.D.25* (Chicago, 1943).

<sup>30</sup>Keith Hopkins, *Conquerors and Slaves* (Cambridge, 1978), pp. 172-96.

<sup>31</sup>Ehud R. Toledano, 'The Imperial Eunuchs of Istanbul: From Africa to the Heart of Islam', *Middle Eastern Studies*, 20, 1984, pp. 379-390. The phrase seems to refer to the widely held view of the eunuchs acting as the guards of the harem, suited by their castration, for the task of protecting the celibacy of the inmates of the harem. This is an over-simplification.

<sup>32</sup>See reference to the 24 *nazir* eunuchs in the Jat ruling house of Bharatpur in Jadunath Sarkar's translation of the Persian history authored by Franz Gottlieb Kuhn, *BPP*, 75, 1956, pp. 71-86, and to the *panchkanya* (castrated slaves) in the ruling houses of Rajasthan in Varsha Joshi, *Polygamy and Purdah*

in the Nizamut records comes from the household list of 1772, where the eunuch Amber is listed as Darogha *Mashalkhana*. Another eunuch, Golam Mahomud Cawn[Khan] is described as Daroga *Meer Shekaran*.<sup>33</sup> Against such obvious positions of trust given to them the Company officials periodically protested. While the Governor-General believed that these men 'neither by station or merit are entitled to the honour of your confidence', the reply of the Nazim illustrated the very different criteria by which such positions of honour and trust were bestowed. Arguing that the eunuch 'Seedy Amber ... is an old inmate of the household', the Nazim pointed out that he 'had been entrusted by my late Father with the charge of the kullumdaun khana department. I have now out of consideration for his length of services (for there is none among the Khauja Serays of longer standing or more trustworthy) appointed him Nazir of my honoured Mother's Dewry'.<sup>34</sup> From this flowed the elevation of rank and perquisites, as he put it, 'to give him a greater degree of Respectability, I according to the custom of this house conferred on him the title of Khaun'.<sup>35</sup> Such titles as were conferred on the eunuchs included those of 'Nawab Nazir,' (mainly for the chief eunuchs) 'Meah' (sometimes used as an equivalent for eunuch) and of course Khan Sahib. The solidity of this custom was attested to by the request of the mother of the Nazim in 1841, Raissunissa Begum, regarding the eunuch in charge of the business of her *deori*, Meah Feroz, in which she said,

It is a long established custom in this family for the Nazir [Nazim] to bestow on the person appointed to the situation of Nazir a Khilat and the titles of Nuwab Nazir and Khan to render his post respectable, such as the Nazirs attached to other Deorees have the titles of Nawab Nazir and Khan. Many affairs of the Dheorees are transacted thro' the medium of the Nazirs and the Papers Dated by them...inconvenience results from the want of a Seal such as is used by the other Nazirs.<sup>36</sup>

The persistent association of eunuchs with specific offices in the administration of the polity was no co-incidence. The office of the *Kullumdankhana*, through which the wealth of the house was governed, was, at least in the late eighteenth and nineteenth centuries, always filled by eunuchs of the Nazims. Not only were wages passed on their receipts, but all accounts remained in their charge. As one Nazim wrote of the 'Sidhee UMBER Ulee Khan, the Daroga of the Kulumdaun Khana', he had been appointed as 'tutor to both my father and uncle, had the

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(Jaipur, 1994), pp. 172-74.

<sup>33</sup>List of persons under the head of Khajaserai in BMisc.C, P/154/38, 23 Jan. 1773.

<sup>34</sup>Letter of Nasir-ul-mulk, n.d., in *MNLR*, I, pp. 22-23.

<sup>35</sup>Enclosed in Edmonstone to Harington, 15 April, 1795, *ibid.*, pp. 18-19.

<sup>36</sup>Reisoonissa to AGG, 7th Rumzan 1256, in *MNLI* (ed. J. Datta Gupta and S. K. Bose, Calcutta, 1967), II, 1834-72, p. 289.

management ... of their pecuniary affairs'.<sup>37</sup> The treasuries of particular deoris was also in the custody of the eunuchs of the particular *mehalserai*. Thus, it was reported that the eunuch Bussunt Ali Khan and Meah Zummurud, the head eunuch of the Doolhin Begum's deori, had received charge of 2200 *bhurries* of silver from the department of the *Khas Tehvil* and deposited the articles in the *mehalserai* according to the orders of the Nazim.<sup>38</sup> The person who received the articles of gold and silver in Bahoo Begum's deori had also been the head eunuch of that establishment, Itbar. The fact that Bussunt Ali Khan was also mentioned as having been in charge of the entire money inherited by the Nazims, including the profits arising from trade and the collections of the various revenue *mehals*, offers a good explanation of political eunuchism itself.

Karl Wittfogel has characterised the institution as a formidable weapon of autocracy for supervising and controlling the ranking officialdom. Hopkins and Patterson extend this further by describing it as a weapon in an absolute monarch's control and neutralisation of the aristocratic classes. Both functions may have been critical in the Nizamut, since the bureaucracy, noticeably constituted by 'Hindus' of writer and accounting groups, had become, or tended to become, a self-perpetuating one. The most obvious example of this trend can be seen in the office of the Diwan, also an office of importance in the fiscal administration of the state. In this office, the claims of the descendants and relatives of previous incumbents was recognised; the office became a source of contention between the rival centres of power because of this inheritability. In addition to this, the Company's insistence on affinal and other male kin being appointed to administrative offices in the Nizamut. Against this apparently hereditary principle, the eunuchs appear to have acted as counter-weights. They were best qualified to do this because they had no separate identity apart from their master; being the living surrogates of the master, they could deal in precisely those financial spheres which were closest to the master's interest, yet retain within his/her control the office itself by virtue of their genealogical isolation as slaves.

Stratification existed among and between other male slaves and eunuchs. The eunuchs in turn had slaves and young trainee eunuchs. It is not quite certain whether it was the privilege of the Chief eunuch of the Nazim, or whether it was one shared by other eunuchs as well, to have his own slave, sometimes an entire establishment of slaves. During the lifetime of one of the eunuchs, Bussunt Ali Khan, for instance, according to a list prepared by the Agent, Caulfeild,<sup>39</sup> he commanded the services (and also made the payments of) eighty-one men and women, of whom eight were listed as *khowas*, with monthly wages varying from one to five rupees. However two other lists exist, made up exclusively of *chelahs*, one with twelve names of those attached to

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<sup>37</sup>Nazim to AGG, 7 Jamadoosanee 1224 Hijree, (1829), BC F/4/1228/40155.

<sup>38</sup>J. Ahmutty to A. Sterling, 17 Sept. 1822, BC F/4/851/22643.

<sup>39</sup>Enclosure A, B, and D in J. Caulfeild to H. T. Prinsep, Sec. to Govt., Poll. Dept., 5 June 1838, *MNLI*, II, pp. 185-89.

the Kuddumshureef at monthly receipts of two to four rupees, and another showing thirteen names, without specific duties, but receiving between two and six rupees per month. All three lists pertain to the year 1239 (1833); in the last however there are some payments listed to the mothers of *chelahs* like 'Bukshhe Khanum, mother of Khyrat Ali Chellah', and two 'widows' of *chelahs* are also mentioned like 'Mussamut Bodhun widow of a chelah whose name is not recorded' and 'Jan Beebee, widow of Seedee Punchoo Chelah'. From this we may possibly infer that these latter slaves or *chelahs* were not eunuchs themselves, but served their eunuch masters. In addition, they did not enjoy the same privileges of rank that the eunuchs might have enjoyed. For instance, in 1853 while on a *shikar* expedition of the Nazim and the Agent, a tin box containing property worth 700 Rupees was stolen from the custody of Hossainee Shaikh, who was the *chelah* of the eunuch Meeah Urjoomund, who though not a chief eunuch, thus did have his own slaves.<sup>40</sup> The youth who was accused of having stolen the box, though also described as a 'chelah of the Huzoor' did not belong to this group of eunuchs: his status was that of 'the son of a Gholam in the service of the Nizamut'. One can infer that this was a lesser status, compared to that of the eunuchs, because of the sleeping arrangements mentioned by witnesses; Etwaree, the father, was described as living in a *pal* 'two or more haths from the Meeahs' tent, more or less, according to the nature of the ground'.<sup>41</sup>

The criterion operative in the formation of this hierarchy is not very clear. Going by the arrangement of space and functions within the Camp of 1853, one could infer that the highest rank among the eunuchs came again from proximity to the Nazim. For instance, the three principal tents were reserved one for the Nazim, one for Aman Ali Khan, an Abyssinian eunuch who was 'chief in dignity' among all the eunuchs, and the other tent for all the other Meahs. According to an English lawyer, Aman Ali Khan's seniority may have been signalled by the post he held: that of Naib, 'or Lieutenant of His Highness. Under him, in various gradations were the others, including the Darogah, or superintendent of the Elephants, and of the kitchen department, also the Urzbegy (who is not a Meah)'.<sup>42</sup> Similarly, while Aman Ali Khan accompanied the Nazim on the hunt, the others did not. Conversely, though the other eunuchs 'regularly dined with the Nazim', the chief eunuch was permitted from time to time to excuse himself from this group.

In addition, the length of service was an important determinant of ranking among the eunuch corps. From the scattered evidence we have at present, the terms of years each had served is difficult to calculate. Etawar Ali Khan, an eunuch in the service of the Nujbulnissa Begum was

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<sup>40</sup>Evidence of Hossainee, in Report of the Sessions Judge of Murshidabad, *Indian Records With A Commercial View of The Relations Between The British Government and The Nawabs Nazim of Bengal Behar and Orissa* (1870, reprint Delhi, 1985), p. 171.

<sup>41</sup>Evidence of Mohammad Ameen, another eunuch in the service of the Nawab, *ibid.*, p. 178.

<sup>42</sup>*Ibid.*, p. 147.

said to have served 34 years in the Nizamut by 1836. Rough inferences can be attempted from the fact that the Nazim referred to the eunuch Aman Ali Khan as 'an old officer of my establishment, and the one of all others whom I had been taught from my earliest childhood to regard with entire confidence'.<sup>43</sup> In this instance, the age of acquisition or length of service can be calculated : Aman Ali Khan, in 1853, was stated to be 33 years old, when the Nazim described himself to have been 25 years old. Therefore the former would have served, by 1853, anywhere between 20 to 25 years already. Thus while Aman Ali Khan's seniority in position may have derived from this, it may be possible to infer from the ages shown against the other eunuchs like Meah Arjoomund (in 1853, aged 30), Meah Belal (27), Meah Ekbal (25) that they would have served a lesser number of years, compared to Aman Ali. However, seniority by age itself could not have been the only criterion, since another eunuch in the same group was Joahir Ali Khan, 60 years old in 1853, or even Hajee Tamash who was 50.

The alternative or complementary organising principle of this hierarchy among the eunuchs may have been the standing of the immediate master or mistress they were responsible to: thus Meah Afreen, estimated to be a 30-year-old eunuch of the deori of Begum Sahib, and not an eunuch of the Nazim, did not merit the same privileges as did Aman Ali. Similarly, though the oldest in terms of age, Joahir Ali seemed to have been the Nazir of the Buhoo Begum. Certainly, this view is warranted by the way official accounts sometimes listed eunuchs according to the hierarchy of the deoris they were attached to. By implication the rank of the eunuch was inferrable from the rank of the person he served. In the 1773 accounts of Mubarak-ud-daula's household, 22 eunuchs are shown under the charge of Saadatmund Khan, in the service of Babbu Begum, at this time considered by the Council at Calcutta to be the head of the *mehalserai*, for an allowance of Rs. 886. Then comes Aitbar Alli Khan, in the service of Munni Begum, for Rs. 92. After him, is listed Acbal in the service of Najm-ud-daula's family.

Individualised submission also implied that they were individually acquired, rather than by one centralised recruiting centre. The records imply that this was the case: under the disbursements of allowances from the head of the *mehalserai* in 1818 are a list of six eunuchs, five of whom were purchased by Babbu Begum, and who were taken over by the Nazim after her death and reassigned to serve one of his consorts.<sup>44</sup> Similarly in the list of Munni Begum's establishment of eunuchs, five African slave eunuchs appear to have received smaller stipends and allowances (of 10 rupees each) than the older eunuchs apparently 'hired' from other deoris (who received between 40 to 25 rupees each).

As in the case of the Ottomans, who combined the use of African with Caucasian eunuchs,

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<sup>43</sup>Nawab Nazim to Duke of Argyll, Sec. of State for India, July 1869, *ibid.*, p. 303.

<sup>44</sup>Statement of monthly distribution of Sicca Rupees 3797-4 from the Deori of the Walida Begum, through Rozeufzoon Khan, Nazir, BPC, 13 Feb., 1818, no. 35, BC F/4/618/15418.



the Nizamut also seems to have acquired its eunuchs from different regions. The prefix 'Siddi' indicated that some of them were from Africa, like Amber, referred to by this prefix. But there were eunuchs of Indian origins as well, for instance Bussunt Ali Khan who was described in one record as a 'native of Hindostan... purchased together with another eunuch named Bahar Ali Khan ... by Eithbar [sic] Aly Khan' and as 'a slave bought for the Begum when he was twelve years old'.<sup>45</sup> The eunuch Rozeufzoon was also described as a 'native of Upper Hindostan', purchased in his childhood by Babbu Begum: after the latter's death he was taken into the Walida Begum's service, while Zummurud, another eunuch, was acquired from Hyderabad by Bussunt Ali Khan.<sup>46</sup>

Whether such different areas of origin and individual acquisition and post-mortem transfers acted to keep the eunuchs from forming one corporate identity is unclear. However, it is possible to infer that each set of eunuchs may have been incorporated at differential ages. For instance, in the court records of 1853, asked for particulars, the African eunuchs had written against them - name of father unknown. The eunuchs of Indian origin, on the other hand seemed to know the names of their fathers; this might imply that the African eunuchs were acquired at ages younger than the Indian eunuchs. However, in most instances, the infancy during which they were incorporated in the household, as well as their 'exotic' origins, appeared to have worked less harshly for them under indigenous regimes, (where they were sometimes powerful enough to manipulate their masters and mistresses), than in the legal regimes under Company rule. For instance, the inability of one eunuch of African origin to gain redress in territorially limited courts of English law was visible when Siddi Nuzzer Ali, of the Nizamut, charged the AGG, Torrens, with forcibly placing a guard over him and his property. In the *roobukaree* held by the Officiating Magistrate, C. F. Carnac, a letter was read from the Advocate General which said that for purposes of Act 53, Geo.3, c.155, the prosecutor had to prove himself to be a native of India, which 'Asiatics ... are not'. Nuzzer Ali was accordingly called and asked to state from what country he is, 'but he was unable to name the place of his birth, or that of his Father-....'<sup>47</sup> The case against Torrens collapsed. So much for the claims of Act V of 1843, that the wrongs done to a slave and that done to a freeman were equally punishable in a court of law.

Given the nature of their individualised belonging, it is not surprising that the eunuchs were major targets of political manoeuvres and vendetta: they seemed to have acted as the scapegoats for the master or mistress an enemy would ideally have liked to have destroyed or humiliated. This was a consistent pattern both in conflicts within the Nizamut and in the relations

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<sup>45</sup>Statement in detail of Her Highness the Munny Begum's Monthly Establishment of Servants and Pensioners', by T. Brooke, BPC, P/120/45, 6 July 1816, no. 51.

<sup>46</sup>AGG to Persian Sec., 6 Dec. 1823, BPC, P/123/56, 9 Jan. 1824, no. 56.

<sup>47</sup>Enclosed in Collr., Bhagulpur, to AGG, 2 Feb., 1852 in *MNLI*, II, p. 677.

between the Nizamut and the Company. In 1772-3, after the accession of Mubarak-ud-daulah and the regency of Munni Begum, the attribution of culpability to Aitbar Ali Khan, the Regent's eunuch, by both the Nazim and the Clavering-led faction within the Council was an obvious example of this. Amongst the complaints that the Nazim made against Munni Begum, one referred to the administrative monopoly established by her eunuch thus:

that most of the ancient servants of his Household had been divested of their employments...to make room for a set of people that he knew nothing of, the creatures of the Begum's eunuch - Atawar Ally Cawn.... the Eunuch had instructed the servants not to suffer him to learn any thing by which he might make himself acquainted with business.<sup>48</sup>

In turn, one of the men, the Naib Daroga of the Nazim's Household Treasury, who had been dismissed by Aitbar, then found employment with James Grant, an accountant at Murshidabad, before whom he laid a complaint of mis-appropriation against Munni Begum.<sup>49</sup> Similar information-gathering by the officials of the Company in 1818 utilised the breaches into which eunuchs were inserted. Rozeufzoon Khan, the Daroga of Babbu Begum's deori for eighteen years, and in 1802, in charge of the *khajaserai*, including one 'Seedeey Feroze', was caught up in the tussle between the Nazim Zainuddin Alijah, the head of the *mehalserai* and the representatives of the Company. Upon the death of Babbu Begum in 1809, and the succession of Walida Begum, he was allowed to retire on his usual allowance of 200 rupees, and Amber Ali Khan, another African eunuch, was appointed to his post. However, in 1810, with the accession of a new, young Nazim, trouble erupted. Walida Begum found the counsel offered by the Nazir eunuch, Amber, to his young master fraught with danger to her authority. Accusing the eunuch of instilling 'pernicious counsel into the mind of the young Nabob in the same manner as it was notorious he had done earlier', she suspended him from the post, and reappointed Rozeufzoon Khan. When the latter was sent to the Nazim to 'present his nuzzer', he was refused, and threatened with the stoppage of his pay and customary allowances. This represented a humiliation meted out to his mistress, for her alleged breach of the system 'under which no Nazir or Darogah of the deoree was appointed without the previous knowledge of the Nazim'. In 1817, therefore, when the Agent of the Governor-General was seeking information about the expenditures of the *mehalserai* against the wishes of the Nazim, it was Rozeufzoon Khan he turned to: the latter 'filled with indignation and instantly resolved to expose His Highness's disingenuous conduct ... furnished with an account of the appropriation of such portion of the sum ... as was disbursed from the Walide Begum's Deurie'.<sup>50</sup>

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<sup>48</sup>Note on Nizamut Affairs, Home Misc. 584, p. 150. Emphasis in original.

<sup>49</sup>Ibid., p.147.

<sup>50</sup>AAGG Monckton to Sec. to Govt., C.Lushington, 26 Dec. 1817, BC F/4/618/15418.

So while they were vulnerable, such powerful functionaries could also manipulate tensions among kin. This was especially critical during the internal struggles of the Nizamut. In 1813, for instance, at the decease of Munni Begum, the reigning Nazim submitted to the Agent at Murshidabad a will supposed to have been written by her, and carrying the seals of the eunuchs of her deori, Bussunt Ali Khan, Bahar Ali Khan, Tehseen and Baharufzoon. None would have discovered this subterfuge if these men had not subsequently confessed the manner in which their seals were appended to the document. According to one version, the Nazim addressed them in these words,

‘Now you are all become mine, and those who are desirous of advancing their interests will affix their seals to this will.’- Accordingly we ... seeing that we had no protector, with a view to preserve our honour, in the spirit of obedience placed our seals before His Highness, saying Your Highness is our Lord and Master.

In another version, separately issued under the seals of Tehseen and Behar Ufzoon, it was said that

four Hubshees were stationed over us for the purpose of obliging us to repair with the Seals to His Highness’s presence. As it is human nature to have a regard for one’s life and honour, we at last, having no alternative, repaired to His Highness’s presence....<sup>51</sup>

While two aspects of the organisation of male slaves is clear from the above account - the transfers of slaves from one master to another, and the susceptibility of even powerful slaves to other slaves acting on behalf of another master, other accounts suggest that the impetus to acquire mastery over the slaves of a dead mistress rested on the special skills and attributes of these slaves, namely their androgyny. Western observers did not appreciate the importance of androgyny and ambivalence as political attributes, making these slaves powerful agents in enforcing the particular will of a Nazim or of a head of a deori. Yet the persistent association of eunuchs with cruelty, and violence,<sup>52</sup> must be understood in the context of the special ability of these androgynous beings to breach the various boundaries separating male from female worlds, the world of the living and of the dead,<sup>53</sup> of the Nazim, the deori heads, and the populace in general. Manucci, the Venetian traveller in Mughal India during the last half of the seventeenth century and the beginning of the eighteenth, was perhaps typical in the contempt with which he described them: terms like ‘brute’, ‘animal’, ‘baboons’ abound in his descriptions of these men.<sup>54</sup> The Earl of Moira, visitor at the deoris of the Murshidabad household, was

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<sup>51</sup>*MNLR*, II, p. 104.

<sup>52</sup>For another Agent’s suspicion of the eunuch Nazir of Buhoo Begum, Jawaharali Khan, for murder, see Magt. Berhampore to AGG, 23 July 1844 in *MNLR*, II, p. 497.

<sup>53</sup>For a subtle analysis of the multiple conditions embodied by eunuchs see Shaun Marmon, *Eunuchs and Sacred Boundaries in Islamic Society* (New York, 1995).

<sup>54</sup>Niccolao Manucci, *Storia do Mogor* trans. W. Irvine, (London, 1907, this reprint, Calcutta, 1966), II, pp. 72-74.

surprised at the insolent authority with which the head eunuch (who was on our side of the curtain) spoke to the poor woman [Bahoo Begum]. She probably had not understood something which Mr. Brooke [the Agent] said to her on my part, on which the eunuch in a high voice and tone of reprehension asked her why she did not answer. Remarking this to the gentlemen next to me,... I was told these fellows were allowed to treat the women with great harshness.<sup>55</sup>

Alternately, describing the scene at the annual festival of *Berah* one newspaper reported the presence of 'a few tall white robed eunuchs, whose presence, as they wandered from group to group called down a low and general obeisance from courtiers, whose polished manners and graceful salaams told how well versed they were in all the etiquette of the durbar'.<sup>56</sup> Or as another AGG translated in 1837, it was this deference shown to eunuchs like Darab Ali Khan that prevented clashes between the British-controlled police and others in Murshidabad from becoming riots, and helped to quell the 'disorders and quarrels.. among the Female establishments'.<sup>57</sup> Clearly this deference, of the 'highest value' to the British administrative authorities, only reiterated the special power of these androgynous beings on behalf of the particular deori they were associated with. The paying of deference itself by a general populace, as well as the contending relatives, was the finest criterion of the successful deployment of eunuchs, since they were the immediate and visible agents of individual masters and mistresses. The visibility of the eunuchs was the compensation and safeguard for the shadowy sacredness of the Nazims, their mothers and concubines. This was too often misrepresented: the visibility of their power was explained in terms of the psychological impairment that followed upon castration. As a judge, referring to the charges of cruelty against five eunuchs of the Nazim's Camp, put it:

The *publicity* of the acts...may be attributed to the *presumption* ...that as members of His Highness's household they had *within* his camp the power to apprehend and punish for theft, and to the *gratification* which some of them, peculiarly circumstanced as they are, might naturally feel in openly displaying that power....<sup>58</sup>

Few could explain the existence of eunuchism in terms of the polity itself. The eunuchs were the embodiment of commercial and political 'agency' for the 'business' of law-keeping and therefore punishment, for economic wealth generation and management of wealth, for the mundane and vital tasks of ruling, and of gathering information and reporting, on the basis of which orders and decisions were taken.

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<sup>55</sup>Marchioness of Bute (ed.), *The Private Journal of the Marquess of Hastings* (London, 1858), I, pp. 84-85.

<sup>56</sup>*Moorshedabad News*, 22 Sept., 1838.

<sup>57</sup>Extract from AGG Melville's Despatch of 20 May 1837, BC F/4/2432/133218.

<sup>58</sup>J. D. Money, Sessions Judge, Murshidabad, to Registrar of the Sadr Nizamut Adalut at Calcutta, 22 September 1853, in *Indian Records*, p. 187. Italics in original.

Though the power of the eunuchs, especially within a literate, numerate bureaucracy, stemmed from their function as administrative managers, we have no means right now of knowing how, and if, they were trained for these functions. We have only two references to this vital issue. The first comes from the 1772 accounts of the household of Mubarak-ud-daula, in which we find the payment of tutors for the 'education of the slaves of the Nazim'. The second is a reference to the appointment of a tutor receiving a monthly wage of 80-100 rupees, because the Nazim wished 'that the two eunuchs Meeans Uman and Nuzeer, his personal attendants, might be taught the English language, ... they have themselves evinced a desire to learn'.<sup>59</sup>

However, their literacy, account-keeping and proximity to their individual masters and mistresses did not release them from 'slave-ness' and the procedures employed against all such revenue servants. No eunuch was ever exempted from complete accountability to the individual whom he served. Thus for instance, Zummurud Ali Khan, the eunuch Nazir serving Ameerunissa Begum, was described by her as having 'incurred my displeasure in consequence of disobeying my orders by which I required him to furnish certain accounts, and he was then accordingly removed from his situation'.<sup>60</sup> Only a full explanation of accounts and expressed contrition could avert further measures against him. This sequence of events was repeated again in 1852, when Nuzzer Ali Khan incurred the wrath of the Nazim and the Agent of the Governor-General for not having delivered a full set of accounts, for which reason he was accused of embezzlement.<sup>61</sup>

This represented the paradox of the institution of eunuchism itself. Important as an institution of anti-kinship, eunuchs individually remained susceptible to the conflicts amongst kin. By virtue of acting not just as the human barriers between the person of the master/mistress and the rest of the world, but as his/her agents, their proximity to their masters and mistresses, and their lack of wider kin ties was the pre-condition of their power. Yet they remained vulnerable, as slaves, to the wishes of their immediate masters, and often to the wishes of his/her heirs as well. A further paradox was that though individually unable to produce heirs of their own bodies, even where they were sometimes married to female slaves, they did reproduce subordination by acquiring younger cadet slaves and eunuchs themselves. It is this last feature that can be seen as paradigmatic of slave-reproduction as a whole in the Nizamut and elsewhere in India: the most obvious is the pattern of recruitment of young female slaves by older skilled slave-women and freedpersons.

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<sup>59</sup>Capt. G. D. Showers, Superintendent of the Education of the Nawab Nazim to Maj.Gen. F.V. Raper, AGG, 19 April, 1843, *MNLI*, II, p. 463.

<sup>60</sup>Ameerunissa Begum to Lord Bentinck, 31 Aug. 1833, BC F/4/1522/60090A.

<sup>61</sup>See correspondence between Offg. Magt., Murshidabad, C. F. Carnac, the AGG, H. Torrens, and Sec. to GOB, J.P. Grant, between February-June 1852 in BC F/4/2491/141010.

Both the issues touched on above - the tensions between male kin and the Nazims, as well as the administrative importance of slave-eunuchs, harked back to the intimate relationship of the *zenana* deoris of the Nizamut to the structures and processes of the polity itself. Though the chronology of events in the outer world, like the trial of Nanda Kumar in 1775, or the imprisonment of Shumsud Daula in 1799, has not explicitly been connected with fluctuations of power within the harem of the Nazims, there is sufficient evidence to suggest this. Before we can postulate this connection, we will examine the peculiarities of the organisation of the harem itself.

### **The World of Women: the Harem and its Hierarchies**

Historians have neglected the issue of the hierarchies of the harem in the Nizamut. Nevertheless, their own narratives sometimes suggest that the harem was not only a significant aspect of the Nizamut, but also mirrored the organisation of the outer court. The head of the harem played a distinct role in governance. This position carried enormous influence, evident from the story of Alivardi's nomination to the Governorship of Bihar in 1732-33. Shuja, then Subahdar of Bengal, had proposed

the appointment of his son, Sarfaraz, as the Deputy Governor of Bihar, [but] was opposed by his consort, Zebunnissa, who did not like to remain separated from her only son. She did not also support the appointment of Taqi Khan,... She summoned Alivardi before the gate of the female apartment, had a rich *khelat* (dress) put on his body through her son Sarfaraz, and gave him a firman for the Government of Bihar. After this investiture Alivardi was called before Shujauddin, who also on his own part gave him an elephant, a sword, a dagger, an embroidered head-dress along with other presents, and the patent for the Deputy Governorship of Bihar.<sup>62</sup>

Thus the governor was first selected by Zebunnissa, and confirmed by the reigning Subahdar. Similarly, Alivardi also seemed to have reaffirmed this position of the head in his turn. He is reported after the usurpation, to have solicited the pardon of Sarfaraz's sister, Nafisa Begum, before ascending the *musnud*.<sup>63</sup>

The full-blown nature of the authority of the female head by the late eighteenth century more than paralleled the markers of sovereignty in the outer palace. Like the Nazim who succeeded to the *musnud*, the head of the *mehal* who succeeded to the *gaddi* gave out titles and honours and above all, the allowances and customary presents. By 1824, one British official was forced to admit that the Government of Bengal was 'already *sufficiently embarrassed* by the *existence* of any such dignity and situation as that of Ja Nusheen of the Deorees *distinct* from and

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<sup>62</sup>K. K. Datta, *Alivardi and His Times* (Calcutta, 1963), p. 9.

<sup>63</sup>Ghulam Husain Salim, *Riyazu-s-Salatin or a History of Bengal* trans. Abdus Salam (reprint Delhi, 1975), pp. 321-22.

in a *great degree* independent of the office of Nawab Nazim'.<sup>64</sup>

The rituals of investiture of the Nazim and the head of the *mehalserai* were similar: though we have accounts of the former, very few records exist of the latter's investiture, except that of Walida Begum (Faizunissa) when she moved to the apartments of Babbu Begum, when 'several of the branches of the family ... attended her in the procession and presented Nuzzers'.<sup>65</sup> Since the ability to sponsor public buildings was another sign of authority, Munni Begum's construction of a *musjid* and a *nahabutkhana* for her son were very important for indicating the funds and labour she could command. A later official commented that

the Musjid, to which on festivals and days of ceremony the Nazims of Bengal were accustomed formerly to resort, having been destroyed by the encroachments of the River, the Munni Begum resolved to build another at her own expense in the Chowk which she had established in the city; and as the beating of the Noubut formed a part of the honours which were usually paid to the Nazim on these occasions, she also constructed a Naubut Khanah in the vicinity of the Musjid.<sup>66</sup>

From Reza Khan's account, it appears that besides the publicly acknowledged position of the head of the *mehalserai*, the power of the *gaddinashin* Begum was reckoned in a multitude of ways.<sup>67</sup> Not only did she have the power to invest significant individuals with the khilat, but the position was also associated with substantial fiscal privileges, like the income from the *ganjes* which, originally held by 'the mother of Miran'<sup>68</sup>, had descended to Munni as the mother of the Nazim Najm-ud-daula. This had continued in her possession subsequently as well. When Mubarak-ud-daula I became Nazim, therefore, he sought to transfer these *ganjes*, namely Jaffer Ganj, Meklema Ganj and the Chouk,<sup>69</sup> to his mother. The position of the head of the *mehal* was also borne out by the sums of cash she disbursed: Munni Begum regularly received from two separate sources, the Nizamut and the Behla, sums upward of Rs. 45,476 in cash and the equivalent sum under the head of *meersamani* or kitchen and household expenses, of which the kitchen expenses appeared to have amounted to 14, 691 rupees annually by the final years of her life. This was in

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<sup>64</sup>Letter to Mr. Loch, 8 Oct. 1824, cited in Caulfield to Prinsep, 2 July 1838, *MNLI*, II, p. 214. Italics in original.

addition to her own personal stipend which rose from 500 rupees at the start of her career to 1200 rupees per month by the end.

In the case of the Murshidabad Nizamut, the hierarchy of rank between the women was signalled by the size, embellishments and location of accommodation. Within the Nizamut before the construction of the new palace, there were principal, but ranked apartments: occupation of these denoted the rank of the occupier. Thus the apartment occupied by Munni Begum, till her death in 1812-3, came to be associated with the specific position of head of the *mehalserai*. The apartments occupied by Babbu Begum, who died in 1809, came to be associated with the position of the second ranking woman of the *mehal* and one of the chief markers of the rise of a woman to authority was achieved in terms of this spatial movement, from one set of apartments to another. These positions in turn were associated with the command of the inhabitants in the lesser apartments, and specifically with the giving out of the allowances, in cash and kind, to the various members of these lesser deoris. Though eldership was prized, 'lesser' status did not tally with the ages of the occupants of the various deoris as is suggested by the fact that among the deoris commanded by Babbu Begum were those like the Rounuck Afza, which contained the concubines and relatives of previous Subahdars and Nazims, including those of Mir Jafar, and the Choughura deori, comprising the apartments of the concubines of Saif-ud-daula. Right from the outset of our period the principles of headship of the *mehal* occasioned many disputes, and the intervention of the representatives of the East India Company according to the political and financial exigencies of the moment.

The position of the second ranking woman was no less substantial, as we can decipher from the conflict that erupted when with the death of the Babbu Begum, that position became vacant. Faizunissa, the mother of the Nazim, Babar Ali, considered her claims to the set of apartments and emoluments vacated by Babbu as having been established by her deceased son himself. For in 1810, her personal allowance had been raised from 1000 rupees (her stipend for the greater part of the time that her son was on the musnud) to 3000 rupees, and an additional sum of Rupees 2000 had been allotted to her for 'the support of the immediate dependants and domestics of her late Highness the Babboo Begum'.<sup>70</sup> However, Babbu Begum had had, apart from this, the payment and distribution in cash and clothing (*meersamani*) of Rupees 20,000 annually to various other deoris and departments. It was this latter prerogative that the incumbent Nazim was wont to claim for his chief consort, maintaining that Faizun's 'right and control' were merely confined to the immediate personal establishment of Babbu Begum, unconnected with the annual distribution. To drive the point home, the Nazim Zainuddin asked her to vacate the

R. Royle to P. Monckton, 8 Aug 1811, DC P/4/392/9260.



apartments of Babbu Begum, in which she had been installed by her son. Faizun (Walida Begum) complained bitterly both about having to return to her former apartments, and having to relinquish the 'victuals, clothing and other customary rights and privileges' which, she argued, appertained to 'the person who succeeds to them and not in the mere place or name'.<sup>71</sup> Consequently, the removal of the person already invested with them from one set of apartments to another did not imply their forfeiture or indeed, any diminution of her rank or authority. The significance of the apartments was emphasised by Zainuddin; stressing the fact that the deori of Babbu Begum 'is that of my late Grandfather, my father and my own', he urged that it should be maintained 'in a more splendid style and on a larger scale than the others'.<sup>72</sup>

Having accepted the promotion of Walida Begum to the position of Babbu Begum in 1809 as a matter of a 'domestic nature not requiring the expression of the sentiments of Government', and moreover, in having acknowledged, by default, Walida Begum's right to control the 'immediate dependents' of the deceased Babbu Begum, the Government in Bengal was caught in a cleft stick. Referring to her investiture by her son, the previous Nazim, the Vice-President in Council decided that Walida Begum was entitled to both the apartments of the Babbu Begum ('the latter are understood to be far superior to her own in point of accommodation and have always been considered as appertaining to the lady holding the superior rank') and the *meersamani* allowances. The Earl of Moira, who visited Murshidabad after assuming the office of Governor-General, perceived a difference in the style of decoration of each of the women's apartments he visited despite his general contempt of the household. Taken first to Walida Begum, whose abode just behind the grand hall of audience was marked off by 'sheets or coarse table-cloths sewed together', he implied that a breach of the ranking system had occurred since another woman, the 'favourite' wife of the Nawab Zainuddin, was 'better lodged than the Walideh;... The curtain was of rather better materials'.<sup>73</sup> In addition to this, the sum formerly allotted to Walida from the *meersamani* - believed by the Government in 1811 to be a paltry sum of Rupees 693 annually, but in reality closer to Rupees 13,998 - was also continued to her, though it appears from later report that when she vacated her former apartments in favour of the Bahoo Begum, Walida Begum also gave up the 'allowances for cloths and shawls and for kitchen expenses in favour of the Bahoo Begum'.<sup>74</sup> But the Council at Fort William tried to appease the Nazim by fixing for his

<sup>66</sup>Extract Poll. Letter from Bengal, 17 March 1820, BC F/4/732/19792.  
consort a *meersamani* allowance of 300 Rupees and the apartment vacated by Walida.<sup>75</sup>

<sup>67</sup>Naib Subah's letter in *Proceedings of Controlling Council of Revenue at Murshidabad* (ed. W.K. Firminger, Calcutta, 1919), under date 3 Jan. 1771, III, p. 10.

<sup>68</sup>Shah Khanam, step-sister of Alivardi Khan, who had born to her one son, Sadiq Ali Khan (Miran) and a daughter who was married to Mir Qasim. Shah Khanam died 'in the time of Nidjim-ut-Dowlah' according to Reza Khan, which presumably indicates sometime in 1766.

<sup>69</sup>From a list of 1790, it appears that the *ganjes* in question were transferred to the holding of Babbu Begum. From 38 shops in these three *ganjes* which sold liquor, a revenue of Rs. 2205 accrued to the holder. See Collr. J. E. Harington, 16 Aug. 1790 in BBOR (Misc.), P/89/36, 29 Oct. 1790, Statements 1-6.

<sup>70</sup>Superintendent of Nizamut Affairs, R.Rocke, to J. Monckton, Persn. Sec. to GOB, 31 Jany. 1811, BC F/4/372/9260.

<sup>71</sup>Letter from Walida Begum, received 7 Feb. 1811, *ibid*.

As this conflict showed, women graduated to positions of authority and privilege over time: one elder's death causing the promotion of another. As each position fell vacant, the claims of women lower down in the hierarchy were improved. This was however not a full-fledged system of bureaucratic transfers, because the rise of a particular woman depended increasingly on the network of relationships she could build up through her children, clients and dependants, with the Agents of the Company. The latter, which had been under financial pressure from the Court of Directors since 1773, and especially after the expensive wars associated with the Governor-Generalship of Wellesley, became more and more involved with the control of stipends, and through this key feature of the internal economy, to control decisions of which woman would be declared the head. For instance, in 1818, the Government of the Company allowed for one of the Nazim's consorts a personal stipend of Rupees 2000 per month, which had no precedent, 'in exchange for the Nazim's 'commendable' conduct in agreeing to 'discharge the floating debt out of the late Munni Begum's property' and in agreeing to reduce his household to the amount of Rupees 14,400 which relieved a financially straitened Company of a greater portion of its obligations.<sup>76</sup>

Despite the apparent fluidity of the hierarchy, one can discern a set of possible principles that determined its form and function. To begin with, the principles which determined the headship itself, though in flux in the late eighteenth and early nineteenth centuries, did seem to have some underlying commonalities. In the case of Zebunnissa, it may have been as the mother of Sarfaraz, and for Nafisa, as the sister of Sarfaraz. The ages of these women can never be verified, but it is almost certain that their headship coincided with a certain post-sexual status, one made so by having borne a child, the other perhaps beyond child-bearing herself, but subsequently strengthening her rank through 'adopting' the 'illegitimate' son of Sarfaraz, born on the day his father died. The determinacy of this principle was at stake in the 1770s when the claim for the headship of the Mehal was contested between Munni and Babbu.

The privilege and authority that was associated with the position of the head of the *mehalserai* was strengthened when the ruling Nazim was her son, as evident from the power that accrued to Munni Begum upon the accession to the *musnud* of the son born of her, Najm-ud-daula. So critical was this power that even when he died and Saif-ud-daula came to the throne, she retained the *gaddi*, because as Reza Khan was to put it later, the latter had no mother.<sup>77</sup> But this changed when in 1770, when Mubarak-ud-daula I ascended the *musnud*. Born of Babbu Begum, this meant that the *gaddi* should have gone to this birth-mother. In the words of Reza Khan,

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<sup>76</sup>Poll. Letter from Bengal, 4 June 1818, paras 58-90, *ibid*.

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the most respected of all Myr Jaffiers Begum... was the mother of Sedek Ally Cawn [Sadiq Ali Khan, Miran]. After the death of Sedek Ally Cawn when as Nigim & Doulah [Najm-ud-daula] was the next son; His mother rose to Preminence after Myr Jaffiers Death, when the Nizamet devolved to Nigimul Dowlah his mother derived her claims from Her Sons Station as Nazim.<sup>78</sup>

However, in the conflict that erupted, Reza Khan proposed that authority and rank be shared by both, though the 'right is in the mother of Mebareck ul Dowlah'. For Cartier, this was impossible. So he invested Babbu Begum in the *gaddi*. This did not resolve the conflict between the two Begums, since Babbu became identified with the championship of Reza Khan and thus had to share in his fortunes. It was not that Munni Begum contested the right of a mother to the *gaddi*, but that she contested Reza Khan's notion of motherhood. She claimed that Mir Jafir,

according to custom, committed him to my Bosom, & having brought him up for 12 Years, the Nabob Mozuffer Jung has now separated him from Me...he has to my Dishonor publish'd that Bew the mother of Mobarik ul Doulah is appointed to the principal authority in the Mehal Serai,....<sup>79</sup>

Two differing conceptions of motherhood seemed to be at issue: Munni claiming the position of chiefship not by virtue of a biological mandate, but by virtue of having nurtured Mubarak-ud-daula ('for 12 years') and Reza Khan, conceiving of chiefship of the *mehalserai* strictly in terms of the blood-tie with the Nazim. Nor was this the first time that Reza Khan had argued thus: when Babbu Begum reported to Cartier that despite assuming the headship of the Mehalserai, her circumstances were straitened and Cartier had enquired from the Naib Diwan, the latter had claimed that the 'place of honour' rightfully belonged to Babbu Begum. The Governor had, in 1770, upheld this claim, only urging Babbu Begum to treat Munni as her superior. Which concept of motherhood, and therefore the succession to the headship of the Deoris, was to prevail depended on a host of factors, not the least being the existence of factions in the outer court.

In 1772, Warren Hastings' restoration of Munni to the principal position in the Mehalserai was tied up with the commercial interests of the East India Company, whose representatives from

1770 had been pressing the Naib Nazim, Reza Khan, to curtail the expenditure of the Nizamut and divert the funds towards maintaining some battalions of English troops. Thus it ousted Reza Khan, who had championed Babbu Begum's claim, by 1772, and Reza Khan's support to Munni in a letter to the Council at Murshidabad, *Proceedings*, (ed. W. Firminger), III, p. 10, 3 January, 1771.

<sup>78</sup>Letter of Mahomed Reza Cawn, dated 26 May 1770 in Wam, Misc. 292 p. 60. The issue of succession to the powerful position was, like the succession to the musnud, clearly very important to the Company. Thus, after the decease of Munni Begum in 1812, the Arzee from Munni in *Proceedings* (ed. W. K. Firminger), II, pp. 95-6.

<sup>80</sup>See Abdul Majed Khan, *The Transition in Bengal 1756-1775*, (Cambridge, 1969).

Council at Calcutta insisted upon the elevation of the 'seniormost' woman, Faizunissa, one of the concubines of Mubarak-ud-daula I, to the *gaddi*, despite the wishes of the Nazim Zainuddin Alijah to have the privilege conferred upon his consort, the daughter of one of the *damads* of Mubarak-ud-daula I, Akbar Ali Khan (Shamsher Jung), Ameerunnissa. The conflict between the Nazims' wishes to initiate a rule by favourites and the traditional rule by mothers created a space for the redefinition of the criteria of headship of the *mehalserai* itself. In its instructions to the Superintendent, the Government observed

that the age, rank and character of the Waulida Begum would alone render her the fittest person to have the guardianship of the late Munni Begum's Deurie... by the usages of the country and the actual practice in the Nizamut it becomes a positive right, of which she could not be justly deprived.<sup>81</sup>

This emphasis that the representatives of the Company put on the 'advanced age' of the woman 'to whom the other begums looked up to as a Mother' was not the whole truth: while it underscored the fact of authority in the *mehal* following upon the condition of post-fertility, it marked a change in that age had not been the critical factor in Munni Begum's authority, so much as her rank as mother. In highlighting seniority within the *mehal* as corresponding with chronological age, the Governor-General changed the basis of that authority, and left the door open for further modifications subsequently.

Around 1821, just when the succession to the *musnud* in the outer court was reverting back to a brother, the principles of succession to the inner government began to change in the hands of the Magistrate of Murshidabad, Magniac. Instead of post-sexuality, and motherhood to the Nazim, other criteria, like the form of marriage, birth, the degrees of affinity as the British understood it began to be brought to bear upon the choice of the candidate. Thus Ameerunnissa's claim to the position began to be privileged on the grounds that she was 'the first cousin and favourite wife' of Zainuddin: moreover, it was claimed that 'she had been married to him by the Shadee Ceremony'.<sup>82</sup> This was a new concern: few officials had raised this issue when promoting the claims of Faizunissa to the headship, even though we know that Faizun who had borne three daughters (Badrunnissa, Motee, Sahebzadee) and one son (Babar Ali) had belonged to the set of *gaens* (skilled slave musicians) in the harem of Mubarak-ud-daula I and no questions had been raised about the ceremony under which she had become the 'wife' of the Nazim. Furthermore, there were those women who were older, like Shurfoonissa, another of the concubines of Mubarak-ud-daula I, who was also the mother of Meer Munglee, apart from the first-acquired concubine of the Nazim Zainuddin, Al Jah, referred to as the Begum. The claims of the former were dismissed on the grounds that she was 'only a khanum' and those of the latter on the grounds that

<sup>82</sup> Minute and Resolutions of the Governor-General in Council, 20 March 1822, *MNLR*, F, pp. 207-11.

she was 'a mere Khuwas, of no family or respectability; and His late Highness never manifested any desire to bring her forward into any prominent situation of the kind'.<sup>83</sup> Yet, Government was apprehensive of recognising Ameerunissa's claims to the headship immediately, for with the influential position her father, Shumsher Jung, held in the court of her husband, Zainuddin, the control of such a woman in the *mehal* would enhance the power of the Nazim. Thus it was not till the death of Zainuddin and the accession of his brother, Ahmed Ali Khan Walajah, that Ameerunissa was recognised as the head of the *mehalserai* and as the Walida Begum herself. This belated recognition of Ameerun by the Company, however, had completely ignored their own criterion of age-based seniority, since Ameerun, by other accounts, was in her late teens and younger than the Nazim Walajah. Moreover, she was no Nazim's mother.

With the exception of Ameerun's term as head of the *mehalserai*, every Nazim on the *musnud* of Murshidabad from 1770 had to contend with a chain of command made up of matriarchs and grandmothers. These were his reign-mates, not any woman who was in the category of 'wife'. The continuous attempts of each Nazim from 1793 to have their favourite consorts installed as *gaddinashin* over and above the rightful matriarch involved all the male Nazims in bitter conflicts with women who were - in the matrix of kinship terms - their grandmothers and mothers. Each matriarch could in turn manoeuvre the contests among male kin against the Nazim on particular issues, like appointments to office, accession to the *musnud*, allowances, and so on. The power of this chain of matriarchs in the *zenana*, in turn, was remarkable because of the fact that the political position of mother had little to do with jural status: slaves like Munni Begum, and slave-born like Babbu Begum, through the service of either bearing children, or through rearing them, could eventually assume positions of command. Munni Begum was born to a widow of Balkunda, a village near Sikandra; she was sold to Bisu, Sammen Ali Khan's slave-girl, who lived 'for five years at Delhi where she taught Munni the art of dancing'.<sup>84</sup> Brought to Murshidabad around 1745-46 by Bisu who had been summoned by Nawab Shahamat Jung (Nawazish Muhammad Khan) on the marriage of his 'adopted' son Ikram-ud-daula - the younger brother of Siraj-ud-daula - the whole party seems to have been subsequently taken into the service of Mir Jafar for a monthly stipend of Rs. 500. This group also appeared to have contained the daughter born of Sammen Ali Khan to Bisu, known subsequently as Babbu Begum, the second concubine of Jafar referred to by Vansittart.

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<sup>83</sup>Ibid.

<sup>84</sup>Brajendranath Banerji, 'The Mother of the Company', *BPP*, 32, 63-64, 1926, pp. 38-48; *idem*, *Banglar Begum*, (Calcutta, 1913); P. N. Bhalla, 'The Mother of the Company', *Journal of Indian History* (henceforth *JIH*), 22, 2&3, 1943, pp. 128-44.

### A Hierarchy of Motherhood, Service-Skills and Seniority

The difficulties experienced in the matter of the headship of the *mehal* arose from the fact that the hierarchy itself was made up of women who combined in themselves a multiplicity of tasks, skills, and origins. The examples offered by Munni and Babbu Begum were repeated through the century : slave-girls, trained in various skills including that of dancing and music, who had been acquired by an official or the head of the *mehalserai*, were simultaneously recorded as the concubines of a son or the servant of one, and sometimes, as in the case of Faizun, and Sahib Jan Raisunissa, eventually became heads themselves. Though details of the hierarchy are not available prior to 1816-8, a fair idea of the internal economy of the deoris after that date is possible. Here, I will analyse the composition of the deoris which were under the control of Walida and the Bahoo Begum, that is the Rounuck Afza and the Choughura deoris.<sup>85</sup>

Under the former establishment paid by Faizun Walida Begum, there appeared to have been broadly three groups. The first was made up of the children and the concubines of previous Nazims, whose individual personal stipends varied enormously: a descending scale seems to have applied here, those of Mir Jafar, like Bee Bugloo, receiving 80 rupees per month, and those of Saif-ud-daula getting a personal stipend of 65 rupees each. But there seemed to be other criteria operative at the same time for the two concubines of the reigning Nazim, Zainuddin, one of whom had been the mother of his eldest daughter, received 50 rupees monthly, but the concubines of his predecessor, who were not mothers of his children, received stipends ranging from 15 rupees to 20 rupees monthly. This was equally true of the concubines of Mubarak-ud-daula I: those women who had borne children uniformly received between 150-200 rupees monthly, like Sherfoonissa Khanum (the birth-mother of Meer Munglee, and an unnamed daughter) and Mubarak-un-nissa (the mother of Meer Mohamed Alli and Jigree Begum), whereas his other concubines received between 20 and 30 rupees monthly. Yet other criteria like length of service, or skills may have equally determined the ways in which these stipends were given, for a concubine who was also listed as the mother of Meer Mehdee, Bebee Lutfunessa, only received 30 rupees while Bunnee Khanum listed as the mother of a daughter called Mubarakunissa), also received a lesser amount. Was it possible that the latter's motherhood was somehow different from those of the higher stipends? To answer this question one must refer to the two different visions of motherhood in contest **within** the Nizamut itself - sexual birth versus nurture.

The relation between access to power and privilege for the slave-concubine was tied up intimately with the bearing of children. The importance of this identity, the mother of a child, was attested to in 1770, when during the conflict between Munni Begum and Babbu Begum, the latter's supporter reiterated the distinction of status that separated the childless woman from the

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<sup>85</sup>The data for 1818 is taken from Monckton's survey in BPC, 13 Feb. 1818, nos. 33-42, BC F/4/618/15418 and for 1822, from BPC, P/123/13, 26 July 1822, nos. 78-82.

mother of a son and heir when he began,

The Dependants of Mahomed Jaffer Chan[Khan] are all 12 in number including Munny Bhegum and the Mother of Mobarek-ut-Dowlah, the remaining 10 excepting one who has got a Daughter are all without Children. From the Time the Mother of Mobarek-ut-Dowlah, agreeably to the Orders of the Council, became the principal in the Mehalserai She has supplied all these dependants and their Slaves, with Expenses, Provisions, Cloaths and every other necessary without having the least Relation to Munny Bhegum. In like manner She has the Care over 12 Women of the Nabob Syef-ut-Doulah, but as the Nabob Nudjim-ut-Dowlah was born of Munney Bhegum, she has the Charge of 4 of his Dependants whom she supplies with provisions, Cloaths and Necessaries from the Nabob Mobarek-ut-Dowlah. These also the Mother of Mobarek-ut-Dowlah was ready to take Charge of, but had this been allowed Munney Bhegum would have been disgraced in the Eyes of the people.<sup>86</sup>

As this correspondence reveals, the central locus of power in the *mehalserai* was the figure of the mother of the Nazim, not the wife. Yet, becoming a mother was not easy. Though records of actual birth and contraceptive practices are scarce in the official records, what is in evidence is the frequency of infant-mortality. Coupled with the travel writings of earlier centuries in the case of the Mughal households, this frequency of infantile deaths awaits investigation. Manucci, for instance, stated that it was 'usual for Mogul princes to rear only four of their sons', and when one of Shah Alam's (Bahadur Shah) wives, Nur-un-nissa, became pregnant, she 'took drugs to procure abortion. What she had taken produced no effect, and in her husband's presence she asked me for drugs for that purpose'.<sup>87</sup> Though Manucci believed that the child was eventually poisoned, it is not for that reason that his evidence is interesting. The way it is recounted indicates firstly, that knowledge of abortifacients may have been an established feature of the Mughal harem and secondly, the concentration on male infanticide.

Both can be explained in the context of the harem. Later historians have noted that Nurunnissa, the daughter of Sanjar Khan Nazm Sani, did have a son called Rafi-ul-qadr (subsequently called Rafi-us-Shan).<sup>88</sup> This either falsifies Manucci's claim or forces us to reinterpret his story in the light of a different perspective. Data on mothers in the Mughal household is not systematically collated, yet whenever children and mothers are discussed together, especially for the eighteenth century, the inference is that some kind of delimitation to single sonship was followed. For instance, the 'wives' are described as 'Nizam Bai, mother of Jahandar Shah', or 'Anup Bai, mother of Aziz-ud-din' or Fakhrunnissa the mother of Jahan Murad Shah. The episode recounted by Manucci may make sense only if we understand that single-sonship may have been particularly important to that household precisely because the role of a mother was an

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<sup>86</sup>Letter from the Nabob Mahomed Reza Khan, in *Proceedings* (ed. Firminger), III, p. 10.

<sup>87</sup>*Storia do Mogor*, II, p. 384.

<sup>88</sup>W. Irvine, *Later Mughals* (ed. J.N.Sarkar, Calcutta, 1921), II, p. 141.

important political one. Various accounts touch upon the sagacity or diplomatic skills of the mother of a prince, especially at key moments of succession, or battle. Thus Muhammad Muazzam's mother Nawab Bai 'gave good counsel to the Prince, and strongly dissuaded him from yielding an assent; and from giving any aid, assistance or intercession on behalf of the Rajputs', while passing through the Rana of Udaipur's territory.<sup>89</sup> Similarly, Farrukhsiyar's mother is mentioned as having first negotiated with the mother of one of the Sayyid brothers for his support in the battle of succession. When the faction which had killed one of the Sayyids, decided to do away with the other brother, the members tried to 'establish communications with the mother of Muhammad Shah'.<sup>90</sup> In such a polity, where the mother was so critical a political personage, no woman could be allowed to have claims upon her authority contested between two uterine sons.

In the early years of Mir Jafir's household, a similar policy of single-sonship for each of the concubines is decipherable, though there was no policy of limiting daughters. We can begin with the concubines of Jafir himself: to Munni Begum was born Nujm-ud-daula, to Babbu Begum, Mubarak-ud-daula (and possibly one daughter, Shumsuddee Begum, who, however is never referred to in the English records as the daughter of Mir Jafir, though she is always referred to as the sister of Mubarak-ud-daula). The same policy appears to have prevailed in the harem of Mubarak-ud-daula I: for the names of the concubines we do have, there are only the single sons listed against the names of each, like Sherfoonissa Khanum, mother of Meer Munglee, Lutfunissa mother of Meer Mehndee, and Mubarakunissa Khanum, the mother of Meer Mohamed Ali.<sup>91</sup> This pattern was then continued by each of the sons of the deceased Mubarak-ud-daula I, and was shared by the in-marrying males. For instance, each of the daughters of Mubarak-ud-daula for instance, had only one son (Badrunissa, the mother of Kummur-ud-daula, Omdutunissa the mother of Wahed Hussain). The implications for the outer male world was that though technically brothers, through a common father, each male was the lone son of a mother, whose ability to generate support for her son and for herself conditioned the dissensions among brothers, uncles and affinal males. Single-sonship was both an admission of the importance of the mother to struc-

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<sup>89</sup>Khafi Khan, (ed. Elliott and Dowson), VII, p. 300.

<sup>90</sup>Irvine, *Later Mughals*, II, p. 57.

<sup>91</sup>Both British officials and subsequent historians paid no attention to these finer details, and confused counts beginning with the former passed into the historiography as in the case of Najm-ud-daula and Saifud Daula, both of whom were described as sons of Munni Begum. Similar errors exist in official accounts of the sons of Mubarakud Daula and their mothers. The only corrective when two sons are listed against one mother is to check the life histories of the daughters of the same mother, from where only one emerges as 'own brother'. One instance of this is the two sons ascribed to Lutfunissa, Meer Mehndee and Abool Husun, by AGG F.W. Russell in letter to Prinsep, 25 June 1821, BPC, P/12/58, 7 July 1821, no. 78. However, both Russell's own subsequent description of the family of the daughter, Ruheemunissa, and earlier descriptions from the period 1809, refer only to Meer Mehndee as her brother.



tures of political authority, and the signal of the changed status of the concubine, heightened by the fact that those who seem not to have borne children continued to be addressed as Bee Haufia, Joogna, and so on, without the benefit of a title.

The significance of motherhood for the concubine was in turn tied up to her access to power, and privilege as the head of the household should her son succeed to the *musnud*. This helps to explain why those concubines who had failed to become birth-mothers in turn purchased children from their own stipends and stood forth as the social mothers of these infants, in what appears as a mirroring of the practice of the heads of the *mehalserai*. Though they remained distinct from the birth-mothers, such attempts at prestige-claiming by concubines further refined the status-ranking and claims within the *mehals*. Thus the lower stipend of Bunny Khanum, a concubine who was listed as a mother of a daughter, was in reality the 'social' mother of another slave-born daughter.<sup>92</sup> In 1818, when, for the first time a detailed account of the deoris of the *mehalserai* was drawn up by the Agent of the Governor-General, it was found that a system existed of 'the concubines of departed Nazims... adopting Children, and thus introducing into the Nizamut persons totally unconnected with that Establishment'.<sup>93</sup> The person this referred to was one male slave, Bubroo, who was 'the son of a behistee, but he calls himself the adopted son of the late Beebee Oojagur, a hurrum of Nabob Syefood Daulah'.

The conception and metaphors of motherhood held out by Munni Begum as legitimations of claims upon specific young males and females was widely shared in the political culture of Murshidabad as well as of the sub-continent. For almost contemporaneously, claims by the Ranis of Bharatpur<sup>94</sup> and Rewakantha showed that it was not birth but 'public acknowledgement' as 'mother' which was the effective determinant of the privileges of the women, as well as the relation of authority between the Rani and the incumbent ruler. Is it possible to speculate then, that both isogamous wives as well as unsuccessful concubines within particular dynasties might have been forced to fail as birth-mothers, and compensated for this by purchasing and rearing children whom they then ceremonially 'adopted' as their own?<sup>95</sup>

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<sup>92</sup>According to one official description, this daughter, Mubarakunnissa was 'brought up from her infancy with Bunne Khanum who treated her as a Daughter... she bears the most respectable character of any of the illegitimate children' of Mubarak-ud-daula, G. Swinton to M. Ricketts, 23 Oct. 1820, *MNLR*, II, p. 198.

<sup>93</sup>Enclosure 7, in Monckton to Lushington, 24 Dec, 1817, BC F/4/618/15418.

<sup>94</sup>The memorial of the Rani of Bharatpur specified that the son of the slave-girl was not reared by the birth-mother but was 'adopted as her own child', BC F/4/1350/53514.

<sup>95</sup>Capt. A. Macdonald, 'Brief Historical Sketch of the Petty State of Baria in the Rewa Kantha', *Selections from the Records of the Bombay Government: Sketches of the Native States* (New Series, Bombay, 1856), no. 23, p. 121. The ages of the children purchased were 'about two months old' and the sums varied between Rs. 200 and Rs. 125. Not all the children mentioned were direct purchases; in one instance, the direct purchaser then gifted the child to the Rani, as in the case of the infant purchased by Gopaljee Kotaree, a native of Baria, who brought the child to the Rani, by whom he was named Gumbheer Singh.

Within the deoris, apart from a powerful group of mothers and concubines, there was a second group made up of a service and skilled corps attached to these concubines and mothers, in capacities like *mogulanees* (interpreted as waiting women) some of whom were trained in literary or accounting skills, implied by the description of one such mogulanees of Munni Begum's deori, 'employed as her Secretary'.<sup>96</sup> Other skills and services included those of *furrash* (cleaner), seamstresses, *hookaburdar* (preparer of the hooka, for smoking), wet-nurses and mid-wives with the prefix 'dudda', 'mama' and 'dai'.<sup>97</sup> In a polity where becoming a mother was important, the availability of slave-midwives and nurses was critical for the survival of a particular infant. At the same time, having suckled an infant, the potential of becoming a 'foster-mother' to a Sahebzada or Sahebzadi and thus moving into positions of status was ever-present. One such slave-nurse was considered to be the major figure in the harem of the Nazim Walajah. The range of these stipends was not as vast as for the concubines and mothers: the *furrash* getting 3 rupees, the tailor at 5 rupees, the *mogulanees* getting between 5 and 10 rupees, the nurses getting between 10 and 15 rupees. A third group, called *aseel*, in turn served the previous group, whose names carried the prefix 'mama' and whose stipends ranged between 2 and 4 rupees.

In the Choughura deori, considered to be the apartments of the concubines of Saif-ud-daula, the stipends of the service and skilled corps seemed to be higher. The mogulanees, some of whom were stated to be very old, appeared to have received 25 rupees at the senior levels but retained the same levels (between 5 and 10 rupees) at other levels. The same seems to have been true for the *gaens*, who at the highest levels received a personal stipend ranging between 20 and 25 rupees, a middle group receiving 14-15 rupees and another level of *gaens* received 9 and 10 rupees. However, it is not easy to determine on what grounds these variations occurred, whether on the basis of the number of years they had served, as in the case of the Mogulanees, or whether according to the degrees of skill, or whether the *gaens* who received higher stipends did so as concubines of the Nazim Mubarak-ud-daula I. For it was also recorded against the names of *gaens* like Jehanabadee, Nowab Bai, Noor Jehan and Ruttun Coor that they were the 'hurrums' of the Nazim. For the seven other *gaens* receiving personal stipends of 10-15 rupees each, no such additional description exists in the records of 1818.

Certainly, an overlapping of function and status was true of the lists of the Murshidabad mehalsarai. Thus it is noted that in the deori of the Bahoo Begum, many of the female *khawas* seem also to have been counted among the concubines of preceding Nazims; there were the names

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<sup>96</sup>Statement in BPC, P/120/45, 6 July 1816, no. 51.

<sup>97</sup>The allowances of individual slave wet-nurses and midwives could vary according to the rise in power or status of the child she had suckled. Thus one of the sons of the Nazim Mubarakud ud Daula I, Sayyid Ali Reza paid to 'Dada Noorun who nursed [him] in his infancy' a sum of Rs. 16 per month, independent of the sum of Rs. 12 that this woman received from Babbu Begum. See AGG to C. Lushington, 23 Sept. 1817, BPC, P/120/72, 10 Oct. 1817, no. 36.

of Joogna Khowas, who though a concubine of Babar Ali, received only 5 rupees while Murad Buksh described as the 'hurrum of the present Nazim before he ascended to the musnud' appeared to have received 20 rupees. It is also significant that to the *gaens* at the upper levels were attached three girls whose individual stipends of 3 rupees could have denoted either their juniority in training or their place among the service group attached to the establishment as a whole. This latter group made up of those who served them, like the 'mama', the tailor and the rowanna whose stipends were 3 and 4 rupees respectively. However, what is truly significant- and suggestive of the pattern of recruitment to this group- is that the three 'juniors' are called *chokree*, thus indicating a pattern of renewal by which slave women themselves either acquired or gave birth to other female slaves. This was important : one British official described the *gaens* paid by Munni Begum as 'girls purchased were instructed in Singing - the Women on the present Establishment are advanced in years, but as they die away their places are filled by Girls born in the Deury'.<sup>98</sup>

The pattern of slave-concubines, and skilled performers, acquiring slaves, suggested by the records of 1818, is confirmed by a comparison with deori lists of the 1850's, when presumably many of these newly acquired slaves would have served for some years. Thus from the deori of one of the daughters of the Nazim Mubarak-ud-daula (Badrunissa, also counted as a wife of Shumsud-daula, nawab of Dacca), the sixteen female *khawas* had served between fifty-eight and twenty years,<sup>99</sup> and had begun service between the ages of six and fifteen. From another list of 1854 too, of the same Choughura deori listed in 1818, the impression remains, that despite the Company's efforts at resuming the allowances of all who were not 'family' i.e. were only 'dependents', the patterns of recruitment into the deori remained as they had previously. Thus, in 1854, among the *gaen* of the Choughura, apart from Murad Buksh who was described as an 'aged woman... the only Gaen now alive' from the list of 1818, there were ten fresh names, to the despair of the Agent who could not fathom when these had been enrolled on the records of the Sheristah Nizamut.<sup>100</sup>

However, one significant feature of the allowances meted out by specific heads of deoris was that there was no automatic correspondence between the deori from which their stipends were issued and the actual residence of the stipendiaries. Clearly, the payment of these stipends determined who possessed final control over them, and not necessarily their residence. This explains the division between the female *khawasses* (slave-attendants) some of whom were paid by one Begum and some paid by another, though all of them seem to have been acquired during

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<sup>98</sup>Brooke's remarks on Enclosure F, Statement in BPC, P/120/45, 6 July 1816, no. 51.

<sup>99</sup>Statement of the old servants of the late Budrunissa Begum in AGG, Lt. Col. Macgregor to Sec. to GOB, 10 Feb. 1857, BC F/4/2708/194266.

<sup>100</sup>Remarks by AGG on statement of present monthly distribution of Dheoreeat, BC F/4/2688/187904.

the reign of Mubarak-ud-daula I. Thus six women received between 3-8 rupees from the Walida and thirteen received between 2 and 8 rupees from the Bahoo Begum. The impression that they may have been transferable from one deori to another is strengthened by the fact that among them, some of the women of the lesser service corps, though paid by the Walida Begum, resided in the apartments vacated by the former in favour of the Bahoo Begum. Similarly, some concubines stated to have apartments in the Choughura appeared to have resided elsewhere: as in the case of Bootee Khanum, a concubine of Mubarak-ud-daula I in 'a separate house of her own near the Palace yard' or as in the case of Mehr-un-nissa, a concubine of Saif-ud-daula, in the Rounuck Afza deori, where also all the *gaens* seemed to have resided even though listed under the Choughura. Similarly, as explicitly stated by a steward of a son of Mubarakud Daula I, many of the slave-servants and concubines did not 'reside in his House... they received wages from the Bubboo begum's Deurie and he [Meer Mogul, the son] made them occasional presents consisting of Articles of Wearing Apparel'.<sup>101</sup>

It would help us to ponder over this aspect of residential location a while, in order to understand that 'domestic' slavery did not imply that slaves of the household only resided in the household of the person who first acquired them. As we have seen with the eunuchs, a large number of female slaves, first acquired by the Babbu Begum were found subsequently 'stationed' with the sons and daughters of subsequent Nazims, many of whom were themselves born of concubines.<sup>102</sup> Thus both in the cases of Meer Moghul touched on above, and of Sayyid Ali Reza (aka Meer Moulvi), both of whom were sons of Mubarak ud Daula I, the concubines and slaves were either 'presented' or 'transferred' by the matriarchs of the deoris. The distinctions between the servants and the served lay in the differential stipends received by each group. For instance, female servants received between 3 and 12 rupees, while those they served, like the daughters of Mubarak-ud-daula received between 250-500 rupees. Similarly, for the male slaves, and those they were stationed with, the Sahibzada, there was a vast gulf in stipends: the latter receiving, at the juniormost levels, between 300 and 500 rupees, while even the most important of the eunuchs did not receive more than 170 rupees-250 rupees. Apart from the spatial mobility generated by the inheritance and gift transfers of slaves from one deori to another, there was also inter-generational mobility: for example a 'singing woman' called Laboo Bai, who had been in the service of Meer Jafir, and then in the service of Munni begum for 58 years (in 1816, she was

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<sup>101</sup>AAGG Monckton to C. Lushington, 8 Oct. 1817, BPC, P/120/73, 17 Oct. 1817, no. 52. The steward Mirza Khadem Ali, detailed the origins of the five women on whose petition for subsistence this investigation had occurred thus, 'Bee Jaun was purchased by Meer Mogul for 200 Rupees, ... Bee Nafurman was transferred to his service by Mubarak Khanum, the mother of one of Mubarakud Daulah's sons,...Goonbharree and Sook Chyne had been formerly slave Girls of his Mother and ... Noorunissa had been his wet nurse.'

<sup>102</sup>For a detailed break-down of slaves paid from specific deoris but serving in others, see enclosure in Persian Sec. to F. Magniac, 25 July 1822, BPC, P/123/13, 26 July 1822, no. 79.

said to be in her nineties), for which she received Rs. 200, resided in the bazar in the Chouk in Murshidabad (whose revenues went to the Begum till her death).<sup>103</sup>

The non-correspondence between residence and the source of stipends also helps to explain the phenomenon of male slaves, comprehended within the group *Shagird Pasha*, and called Zahir Khawas, Meer Wahid Alli Khawas, Gholam Hyder Khawas and so on, who, though paid personal stipends by the Begums, did not reside within the *mehalserai*. Unfortunately, we have no information on where they resided, except for the eunuchs on Munni Begum's establishment, who were said to 'have all separate houses and separate establishments'.<sup>104</sup> As for the non-eunuch male slaves, it seems likely that they performed certain important tasks outside the mehal as its agents, and may also have lived on lands and houses belonging to the deoris and the Nizamut. It is in this capacity that the individual *khawasses* of the Shagird Pasha received between 3 and 5 rupees each, whereas the men who tended to the gardens in and around the city which belonged to the Nizamut appeared to have received even less. Alongside them, there were other men and women who performed in different capacities, like *masalchi*, *bhistis* and even the odd *kabiraj* (Bhagobut Misr) all of whom received between 2-4 rupees monthly. Another level of higher stipends was however given from the *mehal* to certain members of the 'Moolazimaun Imtiazee' (lit. distinguished servants), which included the eunuchs receiving between 15 and 20 rupees from the lesser deoris but sums like 150 rupees per month from the head deori, as in the case of Rozufzoon Khan from Babbu Begum. It also included men like the Daroga who managed the gunges at Patna on behalf of Babbu Begum, who received 40 rupees from her. Within this group of higher servants of the *mehal* could also be found the Begum's principal munshis, and mohurrirs of the deoris, the *Khasnavis*, a post equivalent to the secret intelligencer under the Mughals but in the Nizamut, put down as the writing master of the Sahebzadas, and the Karis (readers of the Quran at the tombs, and the chanters of the murseaa).

The patterns of recruitment to this level of servants of the *mehal* was, in turn, linked to the internal structure in as much as men in this group appear to have been the sons of the nurses and *mogulanees* in the deoris: for example, one of the highest stipends issued by the Walida Begum to this group of men, 58 rupees per month, went to a man who was described as a foster-brother of Mubarak-ud-daula I in that he was born to the same woman who nursed the infant Nazim. Similarly, another man who received 10 rupees per month, was the son of a favourite *mogulanees* of the Babbu Begum. Yet other male servants within this category of Imtiazee, whose

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<sup>103</sup>Enclosure K, Statement in BPC, P/120/45, 6 July 1816, no. 51. For details of the lands, gunges and houses from the rents and sayer duties of which Munni Begum derived a net revenue of Rs. 14,100-0-19-1, see two accompanying lists in same file.

<sup>104</sup>Statement by Brooke, Ibid.

stipends were paid by the Bahoo Begum, were described as the 'son of a wet-nurse of a daughter born to Ruheemunnissa', a daughter of Mubarak-ud-daula I, or as one man who received 15 rupees was 'the grandson of Bebee Rehmud', a concubine of Mir Jafir.

### **Insignia of Dependence and Deference: the Materials of Stratification.**

What did these stipends and allowances mean? Part of a very intricately related economy, these stipends and allowances differed in nomenclature, composition, and function. Cash sums disbursed from the Nizamut treasury to each head of a deori devolved into the broad groups of *matayannah* (assistance) and *mamula'at* (establishment). Most of the sums payable to slave officials, servants and functionaries thus comprised the latter head of the claim that each deori had upon the Nizamut. Generating fiscal claims upon the treasury meant increasing the numbers of those to whom such payments were to be made. This was important because each stipend listed against a slave was also expressive of the amount expendable on the survival of the slave. As the numerous petitions of concubines and servants put it, there was a direct relation between the cash allowance of each and the slave's physical survival. Thus one petition said, 'we drew a monthly sum of 30 Rupees on account of our victuals &ca. from the established allowances of the Deorhee of Her Highness the Bubboo Begum deceased'.<sup>105</sup> Another slave-concubine from the household of the Nawabs of Dacca claimed that 'a sum of 200 Rupees including a cash payment of 10 Rupees for Betlenut used to be expended on her account for all eatables, shoes, cloths'.<sup>106</sup>

The system by which allowances and wages seem to have been disbursed varied between annual payments and monthly payments. Those who were paid by the month came under the category of *Mahinadaraan*, sometimes also referred to as *nakadi* (applicable to troops frequently). The greater weight of payments were over a longer period, and were made up of allowances in kind, rather than an entire sum of cash. This meant that though listed as monthly allowances, they were paid in lump at the convenience of the dispenser of the stipends. Thus we come across frequent references to troops in arrears revolting against a commander, or the servants of a house after the death of a mistress claiming arrears.

However, the sums listed against various names were not always material: virtually everyone connected with the payments knew that some of these names were fictitious, as was discovered in 1817 with a relatively small sum of fifteen rupees standing as a compound part of an allowance to one of the branches of the Nizamut which 'has in reality been hitherto paid to the

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<sup>105</sup>Petition of Muhbooba, Fukrufroze and others, BPC, P/127/32, 12 July, 1836, no. 3 and 27 Sept. 1836, no. 9.

<sup>106</sup>Petition of Ushrfulnissa Hubos in Commr., Dacca, to Sec. to GOI, 9 Aug. 1843, BC F/4/2091/97369.

Munni Begum's Deurie under a fictitious name'.<sup>107</sup> Nor were the sums written against the names of individuals the whole of what they received. Again, the deori of Munni Begum offered the example of a sum listed as 65 rupees to a woman whose husband told the enquiring Agent that only fifty of those rupees were received; upon the latter's persistence, the Dewan clarified that the sum in question 'had been sent for a long course of years to the Munni Begum's deurie under the fictitious name of Sheherbanoo'.<sup>108</sup> One could argue from the ubiquity of the benamee that there was some loss of honour for those claiming to be independent in being seen to be the direct recipient of a sum of money: not only was this true for Munni Begum, but extended to the Nazim, who was also found to be receiving a sum of 221 Rupees under the name of Khodeja Begum and passing regular receipts for it 'under a fictitious seal'. The possibility that this was emulated by others was suggested when a woman, Pearunissa, complained to the Agent in 1859 that she had received nothing of the sum of 50 Rupees supposed to be given to her. The 'head of the household', Syed Khorshed Hossain, claimed that the woman who had claimed the sum of fifty rupees was actually a 'maid-servant' called Pearee, who was supposed to receive only four rupees, and the original recipient was the 'Nuzum' of a step-son of one of the Begums, to whose existence he adduced a paper with sixteen seals. The Nazim, who investigated the matter through his eunuchs, reported that there were two women of the same name, one the 'hurm' (concubine) and the other the 'reekabdarnee' (housekeeper): he believed that the former's complaint held substance.<sup>109</sup>

Why, for the Nazim or anyone claiming to be the head of a household, did resort to the *benamee* become an important measure? Did dishonour inhere to the visibility of receiving, and honour to the visibility of giving? Joseph Miller studying what he called a 'political economy of followers'<sup>110</sup> outlined a polity that stressed people as sources of productivity, so that becoming economically wealthy and politically powerful meant aggregating human dependents of different kinds. Material goods were critical to this economy of deference in that their transfers became a mediating procedure for acquiring this deference; according to standards of patronage, gifts and largesse these goods were redistributed among dependents. Such transactions - misrepresented by

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<sup>107</sup>AAGG to Sec. to Govt., 18 Oct. 1817, BPC, 14 Nov. 1817, no.86, BC F/4/618/15418.

<sup>108</sup>Ibid.

<sup>109</sup>C. Mackenzie to Sec. to GOB, 22 May 1860, BPC, P/127/59, June 1860, nos. 45-48; Memorial of Syed Khorshed Hossein to the Lt. Governor of Bengal, 19 Dec. 1860, BPC, P/127/61, Jan. 1861, nos. 80-81.

<sup>110</sup>Joseph C. Miller, *Way of Death: Merchant Capitalism and the Angolan Slave Trade, 1730-1830*, (London, 1988).

English administrators as philanthropy - confirmed the connotations of superiority and inferiority when material goods changed hands, and reinforced the desire of every subordinated recipient to avoid having to resort to such transactions whenever possible.

In short, the idea that the receiving of land, allowances, clothes and food negated the slave-status of those individuals was a misrepresentation. Slaves did not cease to be slaves because they received jewels, food and clothes. In the political economy of deference, these clothes, food and allowances signalled their dependence privately upon specific masters and a simultaneous public statement of being indebted to them. Perhaps no better record of the congruence of honour, public acknowledgement of authority, and the act of giving exists in the records of the Nizamut than the ones generated in the course of a contest between the Nazim and the Walida Begum in 1811, over the issue of who had the right of giving.

Significantly enough, the substance of the contest were the stipends of the 'Officers and dependents' of the various Deoris and the 'annual presents' of *zemistanee* (winter clothing) and other 'customary gifts' to the sons and daughters of the Nazims. The Walida Begum, Faizunissa, claimed that these were hers to give by virtue of the position she had succeeded to, as the Head of the Mehalserai, and the seniormost woman of rank in the Nizamut. The Nazim claiming for his consort the greater splendour and scale, argued that the only way of ensuring this was through the distribution of stipends and allowances, for then alone 'all the principal dependants, inferior servants, domestics and others attend at this deori and thereby give it an appearance of consequence and importance, and perform the various offices connected with it'.<sup>111</sup> Neither were in doubt about the power associated with the gift, nor about the fact that the status of the recipient was intimately related to the status of the bestower.

The Walida Begum had found out for herself one Id, when the Nazim, instead of presenting his *nazar* in person to her, sent it through his eunuch, Siddi Javeed; the gesture, she claimed, was a declaration of 'her inferior rank and consequence' not only because she had been denied the personal homage of the Nazim, but because it made her appear to be at the receiving end of a transaction from the eunuch. Thus, she concluded, the distribution of gifts to those one considered honourable could only be done by those more honourable, like herself who had been publicly acknowledged as the Head of the Mehal. A very similar statement from a granddaughter of the Nawabs of Dacca (two brothers who succeeded each other in the period 1785-1831) explained that she, the elder in age and senior in rank, could not receive her allowance by the

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<sup>111</sup>Zainuddin Ali Khan to Rocke, n.d., BC F/4/372/9260.



'hand of Hyattunissa Begum as ... she was a Bondmaid of my late uncle'.<sup>112</sup> To receive sustenance or allowance from the hands of a slave was felt to be an inversion of mastery precisely because moral authority and power over people rested on giving.

This hieroglyphic representation of honour and dishonour through the visibility of giving and receiving was not limited to the Nazim alone. A male descendant of a collateral branch of the house, Daood Ali Khan objected to the 'stipends' of the old dependants of the deceased head of the family being paid by the head of a rival branch thus: 'these are my domestics who have acted in their several capacities and duties in regular succession; and continue in attendance on me. When therefor they are excluded from the list of my own establishment and are provided for under that of the Nuwab Mudarood Dowlah, how can they continue their services to me?...I cannot on any account consent that the whole allowances should be distributed by the Nuwwab's people'.<sup>113</sup> This was hardly a bid for sizeable manpower, the number involved were six 'servants', or for sizeable income, for the total sum in question seemed to have been Rupees 189 only. The claim can only be understood in the context of the authority derived from bestowing.

Regardless of the formal distinction made between 'relations' and 'domestics', this was just as true for transactions within a group of kin, as it was for transactions between kin and non-kin. The son of Mohamed Reza Khan, Dilawar Jung, had made this clear to a Governor-General who puzzled over why the former did not disburse the sum allotted for his brother, Behram Jung's, 'widow'. Abjuring all mercenary motives, Dilawar Jung said, 'if I am only to be the medium of conveying to her the Pension, without possessing any authority over her, I shall be placed in the situation of a Khazanchee; Even to them some advantage accrue; the only advantage I require is the care of the Begum'.<sup>114</sup> The care he referred to involved putting guards upon her apartments.

Thus the various sums, referred to as wages/ stipends/ salaries/ allowances in English, should be understood not to have followed upon services rendered, but as advances critical to initiating, and retaining, services within a relationship of dependence and deference. Though money was a significant component of this larger realm of the gift, however, there were other components as well. Chief among these was cloth, followed by food. From the deori of the Munni Begum alone, according to her Diwan, a sum of Rupees 20,807 for 'white cloths' annually (*salleana*) were disbursed in the Mehals not according to any fixed rule but according to the

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<sup>112</sup>Petition of Muzzeedun Nissa Begum (Potee) to Dy. Gov. of Bengal, 25 March 1838, BPC, P/127/38, 25 April 1838, no. 19.

<sup>113</sup>Daood Ullee Khan to Persian Sec. to Govt., recd. 24 Dec. 1821 in *MNLR*, I, p.200.

<sup>114</sup>Dilawar Jung to Persian Translator in Edmonstone to Pattle, 1 Dec. 1798, *MNLR*, I, pp.43-44.

degree of favour in which the individuals happened to be held at that moment.

Cloth both expressed the relationship between the giver and recipient and differentiated between the latter by virtue of the distinctions in the qualities and amounts given to each.<sup>115</sup> Thus while cloth was given to the women of the *gaenpura* (singers and musicians) and the *khowaspura* (personal attendants) as much as to the *khajaserai* (eunuchs), very subtle distinctions existed between all three. In keeping with the sumptuary and dietary distinctions which were crucial to timocratic slave-holding societies, the Murshidabad household also seems to have distinguished the claims of the *sahebzadas* and *sahebzadis* (who traced descent from a Nazim) and other slave-born and slaves in terms of cloth. The quantities and quality of cloth given to one were distinct from those given to the other. Thus the *sahebzadas* and *sahebzadis* received greater amounts of the renowned Dacca muslins, valued for their fineness.<sup>116</sup> Similarly, from the *zemstanees* (allowances for winter cloth) disbursements by Walida Begum, articles like the *balaposh* (quilted covering) and *ruzzaee* (coarser blankets) were never included in the allotments of the *sahebzadas*, but were regularly given to the *khowas*. Within the latter group in turn, distinctions were perceptible between the chief eunuch of the Walida Begum, Rozufzoon Khan, and the other eunuchs belonging to the same *deori*, like Meean Feroze: the former received two 'Nawabis' and the latter received only one, and the juniormost eunuch received the *ruzzaee* alone.

These different types of cloth had commercial values. For instance, in 1818, a piece of *kimkhab* (brocade) measured six yards and each piece was priced at 31 Sicca Rupees, a piece of *jamdani* was ten yards long and each was priced at 26 Sicca Rupees. But *gota* (gold or silver strapping) was measured according to weight, in aduts and tolaks, and each weight was priced at 1/14. Similarly, in the winter allowances, the price of different *balaposh* varied; the Radhanagree cost 4 rupees 8 annas, but the Nawabi cost 11 rupees 15 annas. The prices of *ruzaees* also varied, four main kinds seemed to have been in use in the Nizamut: the Bundree, each priced at 7 rupees 15 annas, the Chirah, each priced at 13 rupees 10 annas, the Bhusma, in turn made up of two varieties, the Mokra which cost 16 rupees each and the Tilla which cost 25 rupees 13 annas each,

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<sup>115</sup>For the symbolic nature of cloth see Bernard S. Cohn, 'Cloth, Clothes and Colonialism: India in the Nineteenth Century' in Jane Schneider and Annette B. Weiner (eds), *Cloth and Human Experience* (Washington, 1991), pp. 304-354; Mary Ellen Roach and Joanne B. Eicher, 'The Language of Personal Adornment' in Justine Cordwell and Ronald Schwarz (eds), *The Fabrics of Culture: the Anthropology of Clothing and Adornment* (The Hague, 1979), pp. 7-21.

<sup>116</sup>For tests of fineness in muslins, the weight of the cloth in proportion to its length and the number of threads in each warp, and the place of each kind *Sharbat*, *Shabnam* and *Abrawan* in the range of muslins see T.N.Mukharji, *Art-Manufactures of India* (Calcutta, 1888, reprint Delhi, 1974), pp.315-20; *idem*, *Dictionary of Economic Products of India* (Calcutta, 1890) and N.N. Banerjee, *Monograph on Cotton Fabrics of Bengal* (Calcutta, 1898).

and finally the Azeemabadi *ruzzaee* which seemed to have been the cheapest of them all at 2 rupees each.

It is thus not difficult to discern the principle underlying the access to different kinds of cloth in the Nizamut: the costliest cloths would be reserved for a small number of recipients and the cheaper, coarser varieties were for general disbursements. Thus those women who received only the cheapest kind of *ruzzaee*, the Azeemabadi, (made at Azeemabad, or modern Patna) presumably ranked the lowest in the hierarchy of the mehal, whereas the slightly superior among the *gaens* in the Chougurrah seemed to have received the Radhanagree *balaposh* and Bundree *ruzzaee* along with single shawls worth 31 rupees 8 annas each, while those who served these women in turn received only the Azeemabadi. Within the category of shawls, too, there were differences in the value of each : the single shawls of the *gaens* were of lesser value than the single shawls given to the concubines of previous Nazims, as we infer from the fact that one of Mir Jafir's concubines received one valued at 75 rupees, while the concubines of Mubarak-ud-daula received single shawls valued at 119 rupees. Only those who had borne sons to the Nazims received a *doshala* (translated literally as a pair of shawls) valued at 150 rupees.

The sensitivity of cloth as a barometer of stratification was not a reflection of its commercial value alone; it was a major insignia by which the wealth and standing of the giver was reckoned. The intimate connection between the gift of cloth and the creation of deference/dependence was perhaps glimpsed even by the most economy-minded Agent in 1818; eager to substitute these for a fixed cash sum, Monckton soon relinquished the scheme since 'if it were to be reduced to the system suggested by me, it would materially affect the patronage and character of the Nizamut'. Since to accept material goods was, at base, to acknowledge one's dependence on the giver, what slaves received - the cash allowances as well as cloth stipends - must be qualified as 'indirect' gifts of the masters to themselves, not just expressions of 'benevolence' of Indian masters in caring for their slaves. Adequacy was always defined by owners, and generosity both in matters of food and clothes, could always be manipulated as 'rewards'. The converse of this, the denial of food and clothes, also worked in turn to discipline some of the recalcitrant slaves some of the time. Moreover, the kind of clothes slaves wore, determined by various owners/masters, may sometimes have also indicated the work they were meant to perform. This may have been particularly applicable to slave-attendants who were also *soontaburdars* (holders of silver standards) and the *gaens*. In both instances, rich or fine clothes (as well as jewellery), worn on occasions when their owners wanted to advertise their wealth and taste, could themselves

be the badges of subjection.<sup>117</sup>

The Company's policies of retrenchments in the Nizamut were resisted on precisely such symbolic grounds by the Nazim in 1802. Referring to the annual savings proposed by the Nizamut Committee in the allowance for the *chelas*, slaves and attendants of the deoris, he showed that the drastic reductions imposed over the period of twenty years - from Rs. 105,454 annually in the 1773 estimate, to Rs. 57,653 in 1802 - had led to the coarsening of the attire of slaves. Thus he urged that 'where the finest muslins *abruwan* and *shubnums* were before used to dress the household slaves,' latterly inferior types of cloths were used. As Nasir ul mulk saw it, the dress or undress of the slave was a direct display of the credit worthiness of the master and the household:

in the establishment of Chelas who became slaves on condition of food and raiment ... every practicable reduction in their allowance has been made... should [further reductions] be effected, they would be left naked and without clothing which would be discreditable and humiliating to the sarkar.<sup>118</sup>

By 1824, the sartorial impoverishment of many of the slaves surrounding the Nazims was noted by other observers in the words 'ragged and tattered' used to describe the servants of the Nazim.<sup>119</sup> The failure of many deori-heads actually to transfer the sums of money to the slaves and servants, or of other heads of households to consume the money paid out by the Collector's office in the name of the slave was also thus a reflection of a worsening fiscal situation within the household of the Nizamut.

In large measure, this material effect on the slaves and servants of the Nizamut can be traced directly to the policies effected by the Company's government in Bengal. After the passing of Regulation XIII of 1813, the Magistrate of Murshidabad, authorised to raise funds for the choukidari police establishment, tried to tax even the small stipends of many of the slave-servants and dependents of the Nizamut. The Superintendent of Nizamut Affairs argued in vain that the means of the greater number of these dependents being no higher than 3 Rupees and 12 annas per month, was on par with the income of the labouring classes, 'barely placing them above indigence', and the average rate of assessment paid by these classes was equivalent to an 'income

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<sup>117</sup>See K. R. Bradley, *Slavery and Society at Rome* (Cambridge, 1994), pp. 81-98. Somatic distinctions along with dress, jewels and body decorations, shaving of heads, appear to have had some significance in the Nizamut. Phrases like *halka bagose* used to denote the male slave with ears bored to carry rings, in the will of Soulut Jung, L/AG/34/29/42, I, p. 178 indicate this. Vernacular narratives, in which 'degradation' is denoted by the wearing of ear-rings by married wives, or 'release' of particular women is signalled by the breaking of jewellery, have yet to be worked into our appreciation of the material 'signs' distinguishing the body of the slave from that of the non-slave.

<sup>118</sup>Enclosure D., Nawab Nazim to President of Committee, 1802, BC F/4/250/5602.

<sup>119</sup>W. Loch AGG, to Stirling, 30 Aug. 1824, *MNLI*, I, p.313.

tax of three and one-third per cent... too heavy a burthen'.<sup>120</sup> Such pressures increased after the creation of the Deposit Fund in 1818 and the compromise of 1834, by which the Company confirmed its sole control over lapsed stipends in exchange for its nominal withdrawal from the appointment and dismissal of officers like the Diwan of Nizamut and the naib Diwan, which subsequent agents infringed anyway.<sup>121</sup>

Based on a broadly two-pronged approach, separating kin from servants, the Company's agents attitude towards the stipends and allowances of concubines, slaves and servants was to treat each stipend as an 'ordinary life provision', which would lapse to the Deposit Fund with the death of each, regardless of any heirs they may have left. However, if a 'relation' of the Nazims died, and left dependants 'the support of whom would be a duty incumbent upon the surviving heirs', some of the relation's stipend/allowance would be made over to the heirs for such dependants'.<sup>122</sup> In other words, the control of slave-servants and concubines of a deceased 'relation' through the manipulation of funds, and putting an indirect bounty on their heads, was connived at by the Governor-General's Council. In addition to such policies on the stipends, the Company's other revenue-generating measures also impinged on this group of stipend-holders because of another twist in the complex political economy of the household as a whole, as with the resumption of *lakhiraj* lands.

While assignments of revenues for the maintenance of slaves was an integral feature of the household-polities of the late eighteenth century, a further complication within the general system of allowances and stipends was their relation to different kinds of tenures and lands. The strategies of carving out private holdings separate from assignments of revenue attached to the office of the Subehadar, in turn, was aided by the registering of many such holdings in the names of slaves, slave-born women and men, concubines and wives. In many instances, through the nineteenth century, such slaves and freedmen and women in turn exercised particular kinds of rights in turn vis-a-vis these holdings. Thus according to a list prepared in the late nineteenth century, different Nazims, *gaddinashin* Begums, and heads of collateral branches (like Purneah, Chitpur and Dacca ruling houses) continued to acquire different *mehals* comprising both *lakhiraj*

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<sup>120</sup>Brooke to E. Impey, 4 May, 1814, BPC, P/120/13, 23 June 1814, no.116.

<sup>121</sup>AGG, Capt. Thoresby to Dy. Sec., C.E.Trevelyan, 17 Feb. 1834, BPC, P/127/12, 13 Mar. 1834, no.40 and enclosure for the provisions of the agreement. Trevelyan noted about this arrangement that out of the General Nizamut Fund of 16 lakhs, 'about 6 lacs are now at the acknowledged disposal of the British Government'. Renaming this the Deposit Fund was Thoresby's idea: Trevelyan was content to characterise it as 'by far the most valuable part of the Sixteen lakhs...to have obtained a final release for it ...is a great point gained'.

<sup>122</sup>Sec. to Govt., H.T.Prinsep, to AGG, Caulfield, 18 July 1838, BPC, P/127/38, 18 July 1838, no. 13.

and *khiraj* lands and *patni* estates in the name of their individual slaves.<sup>123</sup> For instance, Kismut Chandpore was purchased from Gangaprosad Singh Roy and Himmat Singh Doobay for Rs. 15,000 in 1809 by Nawab Babar Ali (Mubarak-ud-daula II) in the name of Mahomed Hosseini Chela.<sup>124</sup> The lot Ghordoha in Birbhum was purchased by Nawab Ameerunissa Begum in the name of her eunuch Nazir Zamurad Ali Khan, from Shivdoyal Chaudhuri at a cost of Rs. 8825 in 1839. Similarly, Nawab Bahu Begum (consort of Nazim Ali Jah) bought one *katha* and  $16\frac{3}{4}$  *gandas* of rent-free land in Rajabazar for Rs. 45 in the name of her eunuch Darab Ali Khan in 1230 B.S./1823 and another 2 *kathas* of rent-free land in the same area in 1268 B.S./1861 for Rs. 401 in the name of another eunuch of her deori, Mian Johar.

The slave-eunuchs, as agents of the individual masters and mistresses, also acquired landed estates from others not directly of the Nizamut. For instance, a six-and-a-half-annas share of Dihl Daibargapara, belonging to one Batul Fatima Begum, was sold to the eunuch Jowahir Ali Khan, the nazir of Bahu Begum for 'a diamond ring and a copy of the *Al-Quran*' in 1243 B.S./1836. The remaining portion of the plot, the share of 2 annas and  $7\frac{1}{2}$  gds., belonging to one Azizunissa Khanum was given by the latter to Jowahir Ali Khan as remuneration in 'lieu of attorney-fees', for a case successfully conducted by him on her behalf. The onset of the resumption of *lakhiraj* tenures, part of the intensification of the revenue-generating drive of the East India Company after the Charter Act of 1833, revealed yet other lists of *lakhiraj* holdings in the names of slaves. For instance, in 1837, the total extent of *lakhiraj* land in the possession of the eunuchs of the Nizamut was substantial, as were such holdings of the concubine's daughters and concubine-mothers in the Nizamut.<sup>125</sup>

Apart from the holdings of *lakhiraj* tenure, slaves also held other tenures of different kinds of immovable property, like houses, garden enclosures, and ponds, within lands that theoretically belonged to the Nizamut. In the *khas mehal* of Ramdaspoore in Murshidabad, for example, a superintendent of *khas* and resumed *mehals* in 1838 reported that the presence of such 'ryots' who were slaves and 'blood relations' of the Nawab Nazim had always been the 'stumbling block in the way of an efficient collection' of revenue in this *mehal*. Even if the *mehal* was farmed out in

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<sup>123</sup>Husain Ali Mirza, Nawab Bahadur of Murshidabad to Collr., 25 Feb. 1885, BPC, P/2499, Aug. 1885, nos. 21-22, Enclosed List nos. 2 and 3.

<sup>124</sup>For conflict between an incumbent Nazim and his brother over Chumpapukur and Chandpur, the title deed of one of which named the eunuch Basheer as the proprietor, see AAGG Martin to Persian Sec., 3 July 1818, BC F/4/732/19790.

<sup>125</sup>'Abstract of Lakheraj Lands', BPC, P/127/33, 1 Nov. 1836, no. 5; Prinsep to Pemberton, 10 April 1839, *MNLR*, II, pp.391-92, Enclosure 2.

*ijarah*, the prospective revenue-farmer offered a very low sum for it because of the difficulty of realising rents from such ryots.<sup>126</sup> Yet none of the holdings listed by the deputy collector, Benode Ram Sein, were of the kind ordinarily understood to be cultivable lands which might be let out to better tenants immediately upon default in revenue-payments. The important point to note about these tenancies was that each kind of land, residential (*bastu*) or non-residential (garden) paid a rent (*jumma*) to the privy purse of the Nazim, albeit at a minimal rate. In other words, slaves were not just the cultivators of individually owned lands (*khas mehal*), but themselves the tenants of such lands. This pattern of tenancies of khas mehal lands, by which lands were held by 'Relations and Dependants of the family at low Rents and Profits were appropriated to their own use' was apparently a widespread phenomenon.<sup>127</sup> A similar kind of tenancy pattern for the khas lands of the Coorg royal household has been studied by T.P.Vijaya.<sup>128</sup> Though Vijaya represents the services and tasks (*hitti-bitti-chakri*) following upon the holding of such tenures of land, the evidence from the Nizamut indicates that the relationship was the inverse i.e. such tenures were granted precisely to those who were already slaves of the household, and performed military, ceremonial and civil duties.

But did this mean that such slave-servants and officials had effective possession of these lands and houses and wealth vis-a-vis their masters/mistresses? Though most individual civil servants recognised that the relationship with immovable property was consequent upon the relationship between master and slave, the Company's policy on these fluctuated widely. Both 'Islamic law' and the testamentary principles of English probate law were invoked according to the fluctuating success of each attempt to bring the lands and wealth of the Nizamut into the government treasury. Such efforts were particularly visible in the case of eunuch-held promissory notes, lands, houses, and plate, as erupted in the eighteen fifties when the Nazim and the AGG, H. Torrens appear to have cooperated in attempting to disgorge the wealth and 'property of the Nizamut' from Nuzerali, another eunuch of the Nizamut, by putting guards over him.<sup>129</sup> In this

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<sup>126</sup>L.J.H. Grey to Commr. of Rev. for 14th Division, Berhampore, 8 Oct. 1838, *MNLR*, II, p.354, enclosure 3 in no. 983.

<sup>127</sup>Graham's Minute on the Report of the Collr. of Dinajpur, BOR, Misc. (Wards), P/89/61, 7 July, 1795.

<sup>128</sup>T.P.Vijaya, 'Honour in Chains: The Problem of *hitti-bitti-chakri* in *Jamma* Tenure in Coorg, 1800-1939', *IESHR*, 32, 2, 1995, pp.135-53.

<sup>129</sup>For the details of the conflict, see *Indian Records*, pp.112-25. For a subsequent Agent's condemnation of Torrens, see Colin Mackenzie to W.S. Seton Karr, 17 May 1861, BPC, P/127, July 1861, no.17; and Mackenzie's criticism of the Govt. of India, in his *Narrative or Precis of the Affairs of the Nizamut at Moorshedabad* in 1859. The publication of the latter drew Cecil Beadon, Secretary to GOI, to rebuke Mackenzie for being an 'unscrupulous advocate of claims on the Nawab's behalf...to comment in a most unbecoming and insubordinate manner on the acts of the late Governor General and of the Government of India whom he serves'. For the *Narrative* and official response, see BPC, P/127/58, Oct. 1859, nos.3-6.

instance, a barrister trained in English law and practising in the Supreme Court in Calcutta, who pleaded on behalf of Torrens, said of one particular slave-eunuch's 'possessions' that

the use of a large portion of the property in the house where Nuzeer Ally Khan lives, may have been, at any rate, tacitly, permitted to Nuzeer Ally ...though without any gift being made, or any idea entering the Nawab's mind that any opposition would be made to his resuming possession whenever inclined to do so.<sup>130</sup>

This observer, presumably trained to categorise acts and entities according to the precise and quantifiable criteria of English law, knew that the relation to property followed upon, and was not antecedent to, the relationship between people. It was this aspect - of the relationship between the master and the servant - that others had also noted while compiling the lists of land-tenures. The Agent, Melville, tried to indicate in his remarks the contingent nature of these possessions by these words 'Excepting the auction purchases specified the rest of the lands seem to have belonged to the Nizamut to which they will revert on his death,' against the eunuch Durab Ali Khan's name.<sup>131</sup> Similarly, for Meean Sooltaun, he noted that 'it seems to be a common custom in the Nizamut to hold lands in the name of a Eunuch or servant tho' the property by custom belongs to the master....'<sup>132</sup>

The explanation offered for this peculiarity of Indian revenue - records, offered by the masters themselves, was that no Nazim, or sovereign ruler, could engage in commerce - whether the selling and purchasing of land or of other articles of trade like manufactured goods or even of raw materials - without loss of honour and dignity. Yet others ventured as a reason for these 'fictitious Registries' the desire to 'protect the Nizamut family from the inconvenience and humiliation of attendance at the local Courts, which a Registration of Landed Properties in their own names, and the consequent responsibility of Proprietorship, might sometimes necessitate'.<sup>133</sup> Besides, this was a widespread practice generally, and the Nazims were no innovators in this regard: writing the name of a dependent against the earnings from a particular tenure in land, called 'benamee' was only shared by the Nizamut. Thus in 1851, it was found that certain estates in Midnapore stood 'in the name of Meer Saduk Ali and Mirza Hossein Ali dead now but originally *benamee* for His Highness the Nuwab Nazim' and these had been farmed to Lewis Teiry of a Calcutta firm, Messrs. Watson and Company, by the AGG, Torrens,<sup>134</sup> without the

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<sup>130</sup>John Newmarch to Torrens, 25 May 1852, *MNLI*, II, pp.727-29. Emphasis added.

<sup>131</sup>Enclosure A in AGG Melville to W.H. Macnaghten, Secy. to GOB, 20 Jan. 1837, *MNLI*, II, p.55.

<sup>132</sup>Enclosure B, *ibid.*, p.59.

<sup>133</sup>D. J. Money, Judge, Diwani Adalat, Murshidabad, to B. J. Colvin, Register of Sadr Diwani Adalat, 16 April 1852, *ibid.*, p. 721.

<sup>134</sup>Seton Karr to Major Lang, Officiating Agent, 1 July 1851, *ibid.*, pp. 664-65.



authorisation of the Government. However, Torrens later claimed that the two eunuchs Nuzerali Khan and Aman Ali Khan had procured the transfer of the Nazim's landed property in Midnapore and in the Sundarbans to Nuzerali Khan on the grounds of 'consideration of an adjustment of claims on the Nizamut' in order to eject Teiry. The eunuchs declared Teiry's *sunud* a forgery, and allied with the zamindar of Takee, Bykunthonath Rai Chaudhuri, promising him 'the Dewanee of the Nizamut as the price of his assistance'.<sup>135</sup> In the same vein, the attorneys of Teiry complained that specific numbers of Government promissory notes, bearing interest rates of 4-5%, had been 'purchased' by Nuzerali Khan but that the purchase - money had not been paid to their client.<sup>136</sup>

Were these eunuchs acting for themselves, or were they acting only in the capacity of agents, holding benamee, lands that effectively belonged to the Nazims and the Begums? On what basis then did various civil servants attempt to adjudicate the inheritance of the 'possessions' of the eunuchs after their decease? Clearly complicit in the conflicts between slaves and masters over the allotment of revenue, goods, or the management thereof (the *peculium*) the Company's decisions fluctuated according to the size of the wealth purported to have 'belonged' to the slaves, which slaves administered and from which in turn they were maintained by the household, especially in the case of important and visibly powerful slaves like the eunuchs. As one Nazim elucidated

it has been the custom that the Property of the Chelas should go to the nazim...At the time that Bussunt Ulee Khan was bought as a slave, he was poor and had no property but Numma Manee Begum having made him Nazir over her household and having given him all the Property of Yatbar Ulee Khan Khoja who was formerly Nazir, he became possessed of a great deal of money during the time he belonged to the household and was the slave of Nummah Muneer Begum.<sup>137</sup>

By this reckoning, the wealth of the slave was a temporary endowment by a mistress, (who had herself been an *umm-i-walad*), of the capacity to improve and manage resources on the condition that such a capacity ended naturally with the physical death of the slave, or the will of the mistress. Since capacities could not be passed in the blood-line where there were no biological heirs, nor could the material wealth held by the eunuch. Conversely, one slave after another could be endowed with the same capacity, through the transfer of the office, salary, or wealth (*peculium*) of a predecessor to a successor in the same post. This mode of transferring the peculia from one slave to another however meant that ultimate direction, and the final fruits of such grants, were the masters'.

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<sup>135</sup>Torrens to Carnac, Mgt. Murshidabad, 15 Feb. 1852, *ibid.*, p. 687.

<sup>136</sup>Attornies at Law (Illegible in original) \_\_\_ & Barron, to H. Torrens, 6 May 1852, *ibid.*, p. 725.

<sup>137</sup>From the Nawab Nazim to Lord Bentinck, 29 Jan. 1834 in Extract Poll. Cons. 6 Feb. 1834, no. 106, BC F/4/1522/60090A.

### Cleaving the Polity Apart

Apart from the fiscal pressures put upon the Nizamut by the Company, a pressure that was passed on to the slaves in turn, the direct consequences of the Company's policies were an escalation of the conflict between male kin and affines over control of stipends and the positions of authority, as well as a divorce between the political role of the deoris and their social existence. While individual Agents of the Governor-General intervened directly to exile recalcitrant male kin, the brothers and uncles of Nazims, from Murshidabad periodically, they also implanted a new code of filial behaviour among males. Similarly, while interceding on different sides in the disputes between the women and the Nazims, they also substantially modified the basis of authority in both and thus helped to diminish both.

An outline of the multiple shifts can be made out between 1775 and 1844, and is best suggested by a narrative of events. The trial of Nanda kumar in 1775 can be understood to mark a high point of the role of the *gaddinashin* Munni Begum, whose re-instatement and expansion of authority over political and financial appointments coincided with the installation of Hastings as Governor-General. From 1773 itself, the Begum's agents, her eunuch Itbar Ali Khan and the *hirkarah* Angnoo Singh were pitted against the Diwan Nizamat, Gurudas, the son of Nanda Kumar.<sup>138</sup> By February 1775, it was clear from the Diwan's panicked complaint against the Begum and her agents that he had fallen foul of a powerful faction within the deori.<sup>139</sup> By March 1775, Nanda Kumar had laid charges against the Begum to the Clavering-led faction within the Council, and his speedy (and reputedly unfair) trial and execution is well known. With the coming to age of Mubarakud Daula, however, the role of the harem began to be increasingly resented both by the Company's officials, because it spelt out the failure of the Company to direct the actions (and expenditures) of the nazim. In 1787, for example, it was reported that Mubarakud Daula spent

a great portion of his time...in the harum [sic], where he daily resorted in order to get rid of the importunity of supplicants or complainants who surrounded him in the morning. All access to him was denied, except thro' the intervention of the Eunuchs....<sup>140</sup>

With the departure of Hastings in 1784, a more consistent attempt was made to draw the Nazim away from the sanctuary of the harem, and the ambit of the Begums. The actual physical relocation of the Nazims, away from the Killah, began with the plans of 1802 to build a new palace for the nazim. By 1808, the Nazim Babar Ali had been induced to move into Nishat bagh,

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<sup>138</sup>For complaints of Gurudas against these two men see *CPC*, IV, no. 297, p. 57; no. 355, p. 68; no. 947, p. 169.

<sup>139</sup>*Ibid.*, p.281, no. 1599.

<sup>140</sup>Home Misc. 584, p. 163.

four miles from the Killah,<sup>141</sup> a removal that deeply offended Munni Begum.<sup>142</sup> The investment by the Governors-General and the Company's government, in the building of a new Palace from the 1820s, thus had small but significant beginnings in the early nineteenth century itself.

Disputed successions both in the outer court and to the inner court, and the possibility of minor males as Nazims, became ideal bargaining counters for finalising the rupture, a policy whose culmination was visible with the accession of the Nazim Faridunjah in 1838. The events which led up to this coup for the Company had had their origin in the refusal of the *gaddinashin* Begum, Nujeebunissa, to refuse to acknowledge the obeisance of two children whom the Nazim Humayunjah claimed to have 'reared' as his own, one of whom he intended to nominate as his successor. Nujeebunissa, following the tradition of Munni Begum and a pattern of complaint carrying deep symbolic resonances, accused the Nazim of having sexual relations with a slave woman who had been both a concubine of his father, as well as the wet-nurse of the nazim when he was an infant.<sup>143</sup> The Nazim, in her view, had infringed both the moral and the political order : abusing the bonds of milk, and dishonouring the sanctity of his father by dishonouring his concubine. Elder males, like Roshunud Daula - a son of the Nazim Mubarak ud Daulah I and an uncle of two successive nazims - appeared to have reinforced the opposition of the *gaddinashin* to the succession of the boy chosen by Humayunjah. The Company's investigation into this completed by Sept 1836, it recognised the intended heir as 'legitimate' but followed it up with the condition that he be educated outside the zenana.<sup>144</sup> From 1838 therefore when the 9-year-old Fureedunjah ascended the *musnud*, a military officer was appointed as the Superintendent of the Nazim's Education. Captain G. D. Showers, the first to hold this office, did not have a clear brief, and appears to have clashed constantly with the AGG, General Raper. Yet both men were completely agreed on the need to detach the Nazim from his mother Raisunissa (formerly Sahib Jan, the slave-girl of Motee Taifadar), and to thus further sever the ties that bound the polity together as a whole. By 1841, Showers had compiled a list of days on which the 12-year-old Nazim would be allowed to visit his mother and stay with her at night, and a separate list for those

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<sup>141</sup>Pattle's private note to Governor-General Minto, BPC, 1 Feb. 1808.

<sup>142</sup>See her note to Pattle, recd. 17 May 1810, saying that Babar Ali over 'the last two years and a half... acted in opposition to my will...removed from the Killah which was near my residence and went to live at Nishat Bagh and Furrukh Bagh', BC F/4/312/7144.

<sup>143</sup>Translated letter from Nujeebunissa Begum of 29 Rubeus Sane 1247 Hijri in BC F/4/1456/57367. For the symbolic significance of such a charge see F. W. Buckler, 'The Human Khilat', *The Near East and India*, 34, 903, 6 Sept. 1928, pp. 411-22. Buckler had urged that the possession of the king's last wife or concubine constituted the capture of succession to the kingship, and 'going unto one's father's concubine' the prelude to taking over the kingdom.

<sup>144</sup>AGG Melville to W.H. Macnaghten, 23 Sept. 1836, BPC, P/127/33, 4 Oct. 1836, no.2, and P/127/38, 18 April 1838, no. 1.

days when he would be allowed to go to the Killah but would have to return to the Mubarak Munzil.<sup>145</sup> This separation was not carried into effect 'without some opposition' on the part of the ruling matriarch, Raisunissa: Raper complacently expected that 'the angry feelings which she now entertains will yield to a just sense of the propriety' of such arrangements.<sup>146</sup> By 1843, the Nazim's sleeping in his mother's deori was discontinued.<sup>147</sup> In thus fragmenting the unit of rule, the degradation of the harem into a narrowly defined social space was hastened. The Company thus presided over the materialisation of a fantasy in Murshidabad: the harem henceforth figured, especially in the eyes of the British officials and administrators, as the site of debauchery, profligacy, poverty and crime. To this re-invented harem, the site of the social as it was apparently divorced from the political, we will turn shortly. However, before doing this, we should note that in displacing the mothers, the Agents themselves began to take over the political role of the mothers. The rubicon was crossed in 1843, when the AGG Raper tried to initiate a marriage alliance between the Nazim and a daughter of the King of Awadh (and was snubbed by the latter).<sup>148</sup> The Company had indeed come a long way from the time of Cornwallis when despite being pressed by a Mughal queen to negotiate a marriage with the household of the nazim Mubarakud Daula, it had tactfully refrained from doing so. However, there was another significant departure that Raper had attempted - the transformation of the marriage-strategies of the Nizamut. To understand both these shifts - the delimitation of the harem from a political to a social universe, and the attempt to steer changes within that social universe, we must look more closely in our next chapter at the weaving of 'Islamic' law in the hands of British officials as they came face to face with the contribution of slaves to the creation of kinship - networks.

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<sup>145</sup>Raper to Governor-General, 31 Aug. 1841, BC F/4/2091/97365.

<sup>146</sup>Raper to Maddock, 20 Oct. 1841, *MNLI*, II, p. 332.

<sup>147</sup>Raper to Sec. to Govt., BC F/4/2133/101356.

<sup>148</sup>Extract Bengal Foreign Progs. 23 Aug. 1843, BC F/4/2091/97365.

## Chapter II

### *Making Kin: Slaves, Reproductive Labour and Islamic Law*

From 1765, when the servants of the East India Company sought to legitimate their choice of allies and the Company's involvement in the 'revolution' in Bengal, issues of lineage politics were important to its overall justifications. Thus Vansittart, explaining his choice of Mir Qasim, the son-in-law of the deposed Mir Jafar, as the Nazim, wrote that the death of Miran removed the heir-apparent of the government. Mir Jafar, Vansittart, the Governor, wrote, 'had two sons by concubines, and a grandson, the child of his deceased son, by a concubine also; the eldest of his two sons was little above ten years old, and his grandson an infant of a few months, so that they were incapable of taking care of the business, supposing the objection of their illegitimacy to be of no weight'.<sup>1</sup> Apparently rooted in Western European notions of genealogy, this view of succession in the Nizamut ellided multiple and discrete issues into one - the issues of status inheritance (slave/non-slave), filiation and marriage. Notions of legitimacy, rested on the presence or absence of a marital compact or ritual within the jurisdiction of the Church. The jural status (slave/free) of the persons in the compact was only implicit, especially in the English colonies, and there too, by default. In a legal framework, where children born of a Church-sanctioned union alone were deemed heirs and participated in the patrimony, children born from slave-concubines domesticated without sacral rites were comprehended both in official language as well as in colonial practice by terms such as 'natural' or 'illegitimate'. Thus when such terminology was used to comprehend and inscribe relationships within the Nizamut, the consequence was the creation of Islamic law within the ideological and legal parameters of English colonial imperatives and practice.<sup>2</sup>

The Company's civil servants in trying to translate the multiple levels at which slave women could be incorporated within a household, not only displaced a refinement of jural status, but also considerably simplified and reconstructed 'Islamic law'. Thus an English official sympathetic to the claims of the slave-born sons of the Attia (Mymensingh) zamindar reported that though the mother of the claimants was a 'kunneez or slave or female servant... this is a difference of no consequence to the cause as by the Muhammadan Law legitimate and illegitimate sons are

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<sup>1</sup>Henry Vansittart, *A Narrative of the Transactions in Bengal from the year 1760 to the year 1764, during the Government of Mr. Henry Vansittart* (London 1766), I, p.40.

<sup>2</sup>For an example of this application, see AGG Cobbe to Sec. to GOB, Macnaghten, 24 June 1835, BPC, P/127/28, 27 June 1835, no. 12. Cobbe spelt out the applicability of term 'illegitimate' to children who were 'the offspring of *khowassen* or concubines' not taken under any form of marriage.

precisely on the same footing in point of succession'.<sup>3</sup> The renowned scholar-official, Macnaghten, advised another official dispensing the funds of the Islamic Mysore princes' household in Russapagla (Calcutta) in 1830s that the term 'illegitimate'

used in consonance with the practice that has been hitherto observed in speaking of children not the offspring of the superior class of wives ... would not seem to be appropriate as children by female slaves are equally legitimate with the offspring of wives.<sup>4</sup>

This simplistic portrayal of issues of birth and filiation/agnation by the Company's officials reduced the complexity, plurality and fluidity of practices and concerns of those households that had slaves and slave-born among its members. In practice, wherever there were slave-born children, the issue was not of belonging to, and often in, the lineage, but of juniority and seniority in claims to honours, privileges and exemptions. Moreover, such belonging in the lineage was fundamentally premised upon clear proof of title to that slave; in other words, whose slave the woman had been. As Tuhowir Jung, the younger sibling of a deceased grandson of Muhammad Reza Khan put it, what was critical to establish was that the slave who had borne children was not a contracted slave, but one belonging to the mother of the deceased male, so that her child could be claimed as the household's.<sup>5</sup> Similarly, those elder males who contested the 'sonship' of Faridunjah in 1835-36, did so on the basis not of the slave-origin of the child, but on the failure of the ruling Nazim to establish his 'possession' of the dancing girl who was the slave of Motee, of a *taifa* (lit. group) of skilled women and girls.<sup>6</sup> Clearly, it was not 'legitimacy' of a child that was in question, but of the different bases for establishing claims over the women and children born of these women. As the contestants in Murshidabad in the 1830s urged, there were very precise codes by which the possession by a Nazim could be signalled. Thus

if any khowass, nautch girl or other should find favour in the eyes of the Nazim, she being then designated khadima, and sent into the Mehal, has no liberty to go

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<sup>3</sup>J. Duncan, Preparer of Reports at the Khalsa, to Revenue Dept., 24 Feb. 1783, BRC, P/50/44, 25 Feb. 1783, no. 28.

<sup>4</sup>Sec. to GOB to Suptdt. of Mysore Princes, Caulfield, 19 July 1836, BPC, P/127/32, 19 July 1836, no. 20.

<sup>5</sup>Enclosure no. 1, Nawab Tuhower Jung to Sec. to Govt., recd. 22 Aug. 1835, BPC, P/127/29, 10 Sept. 1835, nos. 30-31. The questions submitted for the opinion of learned men begins with the claim to the slave girl: 'If a person cohabits with a slave girl belonging to another individual...'. In an accompanying statement, no. 3, Tuhower Jung went on to show that the slave girl had been purchased by his mother for twelve rupees, and subsequently placed at the service of his sibling. This document is a classic description of the modes in which children born of slaves were 'reared' as children of the 'house', and selectively made 'heirs'.

<sup>6</sup>Nawab Roshunud Daula and Nawab Zoolficar Ali Khan to the Governor- General, recd. 20 Jan. 1835, IPP, P/193/70, 5 March 1835, no. 172. This was apparently common knowledge, judging by articles in the contemporary press, vide *Moorshedabad News*, 13 Oct. 1838, and *Daily News*, 9 Oct. 1838.

elsewhere...then an allowance is fixed for her food and clothing... [they] had no longer the power of going to their former mistresses.<sup>7</sup>

Explicating a code in which the proximity of a slave-woman to the Nazim was marked out by the degree to which she partook of the spatial and social seclusion that characterised his person, such petitions could not be reduced to the 'legal' framework that officials tried to bind them within. Once in 1835-6, and again in the 1870s, investigations were conducted on directives lifted out of an apparently theological framework. Thus Macnaghten, as Secretary for the newly constituted Government of India, directed that one of the points of enquiry in the case of the child claimed by the Nazim was to be the existence of

any proof that the Mother of the Child was united to him by any of the forms of marriage in use among that sect of Mahommedans to which the Nawab Nazim belongs, or was the child born under such circumstances as to warrant his being claimed by the Nuwab Nazim as his offspring.<sup>8</sup>

Set against the broad formulaic enunciation of Company officials regarding Islamic law and the 'legitimacy' of the slave-born, the attempt to distinguish among the children and the women according to differing 'legal' compact then appeared to have formed the heart of a contradiction in colonial policies. This contradiction, however, was manifest in the official and non-official adjudication of the very material and fiscal claims of such persons upon the Company, the ultimate dispenser of funds.

### **Contemporary Meanings vs. Classical Prescriptions: Marriage, Slave-Status and Islamic Law**

Almost the first test of genealogical descent became, in the eyes of the Company's officials, the kind of compact or marriage, that a child was born of, and a woman was taken under. Thus the conflict between Burke and Hastings, around the accession of Munni Begum to the Regency of Murshidabad revolved around the absence of a compact for Munni Begum which could be called marriage in Burke's terms, and the apparent presence of such a 'legal' compact and status for Babbu Begum. Yet the issue was more complex than the presence or otherwise of marriage compacts, it was the meaning of terms denoting marriage itself, and the attendant category of 'contract'. Claims of marriage did exist: in the certificate issued to Clive in 1767 for the five lakhs

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<sup>7</sup>Abstract trans. of letter of Nawab Roshunud Daula, 10 Bysack 1243 B.S./ 22 April 1836 in IPP, P/194/16, 1 Aug. 1836, no. 89.

<sup>8</sup>Macnaghten to Commr. for Murshidabad Division, 5 March 1835, IPP, P/193/70, no. 173. For an illuminating discussion by the Commission of Enquiry (Oldfield, Macleod, and Melville) of the inapplicability of 'Islamic law' as constituted by Macnaghten's *Principles of Moohummudan Law*, see Report of 14 July 1836, IPP, P/194/15, 1 Aug. 1836, no. 81. W. H. Macnaghten, the son of Francis Adam Macnaghten, an English lawyer who had served in the Supreme Court in Calcutta, derived his 'principles' from the cases, the 'precedents', that were submitted to the Qazi and muftis in the Sadr Diwani Adalut between 1814 and 1824, during which term he was the Register of the Court.

of rupees in money and effects, Munni Begum had reported the deceased Mir Jafar to have instructed her to distribute the remainder of his effects 'after your marriage settlement is paid'.<sup>9</sup> Another petition of 1770 says that '30 Years prior to this, Meer Mohamed Jaffier Cawn when he as Buckshy enter'd with me into the bonds of Matrimony, & entrusted Me with the whole Authority over the Mehal Serai...'.<sup>10</sup>

The question was broader than the existence of a marriage-settlement between Jafar and Munni (and the consequences in law); the real issue was the intersection of vernacular terms and local contracts with classical textual prescriptions and the ability of both the Company and the members of the Nizamut to manoeuvre the nodal points of this intersection. The significance of these terms and contracts lay in their contravention of classical prescriptions.

In the compilation of decrees known as the *Futwa-i Alamgiri*, as well as traditions passed on about the life of the Prophet, one of the major bars to marriage was slave status. It seems to be a matter of some doubt whether this prohibition was part of an older practice, having less to do with law than to do with honour.<sup>11</sup> On the other hand, if there were no religio-juridical prohibition upon marrying one's slave, how close was the adherence with the Quranic injunction to masters to manumit their slaves before marrying them? Clearly, much hinges on how marriage is conceptualised in a specific historical conjuncture. If sexual alliances with slaves were represented within a grid of polysemous terms like marriage, did the consequences of these relations differ in law and in practice from the consequences of isogamous or homogamous unions, where like was married to like?

The problem in assessing the situation in Bengal was the wide difference in the way the same word represented different meanings in the vernacular and the classical texts, like *nikah*. Genealogies submitted in a dispute in the 8-annas share in the Attia zamindari in Mymensingh in 1778 describe a male ancestor of the house as having four wives, two by *nikah* and two by *shady* [*shadi*].<sup>12</sup> Another man in the next generation in the same family, Khoda Nawaz Khan, was described by another as having a relation with a slave-woman of 'that kind of marriage called

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<sup>9</sup>Translated Document Under the Seal of Meny [sic] Begum, BPubC, P/1/41, 20 January, 1767, p. 62.

<sup>10</sup>Progs. of the Controlling Council of Revenue at Murshidabad, 3-31 December 1770, in Walter K. Firminger (ed.), *The Letter Copy Books of the Resident at the Durbar at Murshidabad, 1769-1770* (Calcutta, 1919), II, pp. 95-96.

<sup>11</sup>See story of the marriage of the sister of a slave by a Sultan in H. M. Elliott and J. Dowson, *The History of India as Told by Its Own Historians: The Muhammadan Period* (London, 1871), III, p. 184.

<sup>12</sup>Enclosed in Council of Revenue at Dacca to W. Hastings and Council at Fort William, BRC, P/50/8, 3 Feb. 1778, no. 110A.



neka... but not that of Shady'.<sup>13</sup>

Dictionaries compiled by the leading Persian scholars of Hastings' circle seemed to be aware of the impossibility of precision in translating these terms. Gladwin, for instance, noted against the term *nikah*, 'In the primitive sense, it means *carnal injunction*. Some have said that it signifies *conjunction* generally. In the language of the law it implies a particular contract, used for the purpose of legalising generation'.<sup>14</sup> In seeking to encompass both the legal meaning of the term, perhaps in the sense that the Quran spoke of it, as well as the popular conception of such a ceremony distinct as from the textual-legal meaning, Gladwin may have picked up the sense in which many in Bengal at that time understood it. Contemporaries reported that the 'lower classes' believed that *nikah* was a lesser union and the ceremony of *shadi* enjoyed higher status.<sup>15</sup> G.A. Herklots, in his translation of a text, *Qanoon-i-Islam*, written by a teacher of Arabic and Persian to officials in the Madras Presidency, Jafar Sharif, noticed the confusion thus,

*Neekah* and *Shadee* are often used synonymously though in Bengal the former is only applied to a second kind of marriage called half-marriage. By the ignorant it is esteemed unlawful and disreputable, equivalent to keeping a mistress. Whereas, in reality it is the foundation of matrimony....<sup>16</sup>

We can even surmise that this was not specific to Bengal alone from the account given of the Afghan rulers of Bhopal in the late eighteenth century by Malcolm, who in describing the 'widow' of Yar Mahomed Khan who had never 'publicly married' this woman from Upper Hindustan, noted that the *nikah* which was performed was 'an engagement... inferior to marriage... common where the condition of the parties is too unequal to admit of one more legitimate'.<sup>17</sup> Similarly, numerous cases in the courts of the East India Company in the 1840s and 50s bear testimony to

<sup>13</sup>Deposition of Ramkunt, 15 May 1781, in F. Gladwin, Collr. of Silberris to J. Duncan, 22 June 1781, BRC, P/50/44, 25 Feb. 1783, no. 28.

<sup>14</sup>F. Gladwin, *A Dictionary of Mohammedan Law and of Bengal Revenue Terms with a Vocabulary, Persian and English* (Calcutta, 1797), p. 38.

<sup>15</sup>N. B. E. Baillie, *Digest of Moohummudan Law, on the Subjects to which it is usually applied by British Courts of Justice in India*, (London, 1865), I, p.1, fn 1 specifies that though 'nikah' is the proper and distinctive name of marriage, 'in Bengal it is restricted to what is deemed an inferior kind of marriage, in opposition to *shadee* which properly means joy or festivity but is commonly applied to the first or principal marriage, usually celebrated with festivities and a good deal of expense'.

<sup>16</sup>Cited in William Sloan (ed.), Macnaghten's *Principles and Precedents* (London, 1860), note, p.479. I use this citation for two reasons: one, as proof of the British jurists' awareness of divergences between classical texts and practice, which thus complicates their imposition of 'correspondence'. My inability to find the original version of Herklots' translation is the second. A heavily revised and re-arranged edition, by William Crooke, published in 1921, omits this sentence altogether.

<sup>17</sup>John Malcolm, *A Memoir of Central India, including Malwa, and Adjoining Provinces* (London, 1823, reprint Delhi, 1970), I, note on p. 368.

the divergent status of *nikah* and *beah*, or *shadi*. For example, we hear from Dinajpore of a man whose wife by *beah* remained in her parent's house, while his wife by *nikah* lived with him.<sup>18</sup> Much more explicit was the charge laid by a woman from Purneah against a man who 'proposed to take her daughter in marriage by *nikah* but that she had as often refused compliance with his wishes, stipulating that if he wished to make her daughter his wife he must marry her in the proper and regular manner'.<sup>19</sup> The same distinction is sought to be warned against in one of the tracts issuing from the nascent movement to classicise Islam in Bengal in mid-century, in which Mullah Samiraddin says,

*Shonore Allahr banda nekar khabar*  
*Shadi nahi kahe ketab bhetor...*  
*Nekar bayan Allah apani koyechhe.*<sup>20</sup>  
 (O believers, hear the description of *nikah*  
 The Book says nothing of *shadi*  
 Allah himself described *nikah*).

Such comments suggest that the meanings of terms like *nikah* were in flux throughout the first half of the nineteenth century; a flux that came from the tension between the practice of slave-holders and the prescriptions of texts. The differential between contemporary, contingent, vernacular meanings and classical textual prescription and form appears to have permeated the interpretations of those very muftis and maulvis employed by the Company to be the spokespersons of an uniform theological or canonical interpretation. Not only were there significant differences between maulvis and muftis attached to provincial courts and those of the Sadr Diwani Adalut, there were differences over time within each of the groups of 'law officers' on these issues. Despite the propensity of English collectors and magistrates to reduce issues of filiation to issues of legitimacy when submitting questions to the muftis in the Sadr Diwani Adalut, the answers of the latter revealed layers of subtlety and attempts to understand classical injunction in terms of local practice. For instance, in one such contest where the law officers were asked to state the requisite forms of *nikah* (which one claimant of the half-share attributed to his mother and three other slave-women of a zamindar called Jafur Ali in Serial pergunnah of Mymensingh), the maulvis' answers revealed a greater flexibility than the format of the questions allowed. After setting down the requirements of reciprocal *ejaub-o-kubool* (declaration and consent) the

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<sup>18</sup>**Government vs. Gookoora Nusho**, in *Report of Cases Determined in the Court of Nizamut Adawlut*, (henceforth *RNA*), 1853, III, Pt. I, (Calcutta, 1854), p.393.

<sup>19</sup>**Musst. Guleeah vs. Syed Babar Ali and Musst. Najoo** in *RNA*, 1852, II, pt. I, (Calcutta, 1853), p.544.

<sup>20</sup>Maulvi Samiruddin, *Bedar Ghafelin* (Calcutta, 1877), p. 88. For a historical study of the movement, see Rafiuddin Ahmed, *The Bengal Muslims 1871-1906 : A Quest for Identity* (Delhi, 1988).

witnessing by two free, adult and sane men, or one man and two women with the same qualifications, the maulvis said,

Modern lawyers have, on prudential grounds, held marriage with slave girls to be advisable,... With respect to ostensible slave girls, bought in times of scarcity, at a low price, from Moohummudans or infidel subjects, and kept for concubinage, there is a doubt as to the legality of their embrace; wherefore marriage with them to ensure the lawfulness of it, has been held preferable.<sup>21</sup>

The maulvis' validation of marriage (not concubinage) with slave-girls appears to have been an attempt to reconcile practice in the eighteenth century with the classical textual requirements and meanings of *nikah*. Were all sexual relations with slave-women then assimilable to one form of cohabitation - *nikah*? The attempt to cut through the complexity of practice by some kind of standardisation, evinced by the moulvis earlier, flowed back into the translations authored by the Company's jurists. For instance, N. B. E. Baillie's translation of the *Futwa-i-Alumgiri* tried to assimilate this difference by aligning it with the different kinds of compacts allowed by different schools of Islamic doctrinal law. Thus he wrote that the chief difference between different kinds of marriage was the length of the 'contract' that earned it the name of 'nikah': to cite him,

according to the Hanifites, the contract must be for the life of the parties, or the woman be the slave of the man; and it is only to a relation founded on a contract for life that they give the name of *nikah* or marriage. According to the Sheeas, the contract may be temporary, or for life, and it is not necessary that the slave should be the actual property of the man; for it is sufficient if the usufruct of her person be temporarily surrendered to him by her owner. To a relation established in any of these ways they give the name of *nikah* or marriage; which is thus...of three kinds; permanent, temporary, and servile.<sup>22</sup>

This usufructuary compact had a specific nomenclature; it was known colloquially as *mutaa* and technically as *nikah-i-mutoot*. This was characterised by the fixing of a term (for so many months) or the fixing of a sum (for so much) prior to the establishing of the relationship and closely resembled hire lease arrangements in practice. The recognition of this compact in Shia doctrine did not endow the children born of it, or the woman thus taken, with the rights of inheritance<sup>23</sup> - precisely because title to this woman was not permanently established in the progenitor. Sunni doctrine, on the other hand, while holding to the invalidity of this form, decreed that the blood-tie (*nasb*) of the child of this union was established in the man, and by implication to the category

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<sup>21</sup>See **Gholam Husun Ali vs. Zeinub Beebee (on the part of her son, Himmud Ali)** in *Report of Cases Determined in the Court of Sudder Dewanny Adawlut, 1791-1811*, (ed. W. H. Macnaghten, Calcutta, 1827), I, pp. 48-52.

<sup>22</sup>N. B. E. Baillie, *Digest of Moohummudan Law, Containing the doctrines of the Imameea Code of Jurisprudence on The Most Important of The Same Subjects*, (London, 1865, this edition 1869), II, pp. xiv-xv. Emphasis added.

<sup>23</sup>Baillie, *Digest*, II, p. 345.

of heirs.

For both Shias and Sunnis in Bengal in the first half of the nineteenth century, the relation between the slave woman and a man, either her master or one chosen by her master or mistress, could be comprehended within the term *nikah*. Therefore, it is probable that Quranic proscription notwithstanding, Islamic legal practice of the late eighteenth century and later did not insist on the manumission of the female slave prior to 'marriage', for marriage itself included the relationship with the slave in ordinary parlance. Yet all wives were not slaves, just as all female slaves did not become wives/concubines of their masters, or the males of the households in which they were incorporated. The same stratification that existed within professions and skills within slave-based households characterised the stratification among 'wives'. The children born of each kind of wife in turn had access to differential honours and privileges, claims and exemptions. The latter, most visible when the issues of inheritance of land, honorific titles or powers were concerned, was also in keeping with the concern that legal doctrine in pre-Islamic Arabia had with *kafa'a*, roughly translated as equality of birth and social status especially in reproductive relationships. According to Lewis, this had its antecedents in tribal custom and was not sanctioned by the Quran; yet, it survived and became part of the holy law of Islam with different schools modifying the constituent features of *kafa'a* rather than overthrowing the whole principle.<sup>24</sup>

Secondly, where the Quran and legal opinion concurred about emancipation for a female slave, it was as a consequence of such a relationship: when a slave had borne a child **to her master** which he acknowledged, she became his *um-i-walad*, the mother of his child, a status that ensured, in theory, her immunity to further sales and entitled her to emancipation at his death.<sup>25</sup> However, these privileges were also contested by the different schools. The Hanifites considered these permanent but the Imamees held that the exemption from sale was restricted to the life of the child if she had borne a child to the master, and her title to emancipation was at the expense of her child's share in the master's estate; where the child's father had only the usufructuary right in the mother, she did not acquire the status of the *um-i-walad* because the claim of her original owner upon her continued.

### **Islamic Law and the Nizamut**

Such refinements of doctrinal law and local practice were important because the Nazims were

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<sup>24</sup>Bernard Lewis, *Race and Slavery in the Middle East: An Historical Enquiry* (New York, 1990), pp. 85-86.

<sup>25</sup>For a study of the impact of such shared codes on the sales of pregnant slaves, see Ehud R. Toledano, 'Slave Dealers, Women, Pregnancy, and Abortion: The Story of a Circassian Slave-Girl in Mid-Nineteenth Century Cairo', *Slavery and Abolition*, 2, 1, 1981, pp. 53-68.

followers of Ithna Ashari (followers of the twelve Imams) Shi'ism, at the same time that canonical, public prayers were conducted according to the Sunni traditions associated with the acknowledgement of the supremacy of the Mughal Emperor. In the early years after the establishment of the Diwani, the Company's servants did not need to distinguish between the different schools of Islamic law applicable to the members of the Nizamut, till Munni Begum's countenance to the 'change in the Established forms of Mahomedan worship' in 1810-11 caused a certain group of Sunni inhabitants of Murshidabad to protest about the 'alteration of the form of prayer' sanctioned by the 'King of Delhi, which has always prevailed in Hindoostan, and which in fact he is bound as Nazim to maintain'.<sup>26</sup> Notwithstanding the general willingness of the Company officialdom to follow Munni Begum's directions in most matters pertaining to the Nizamut, the Governor-General intimated to her the intention of upholding the Sunni law since it was the one 'by which the decisions of the Courts of Justice when under the superintendence of the Nabobs of Bengal and since that time, under the authority of the British Government have been regulated in all causes'.<sup>27</sup> Yet not only was the Company's intervention in the maintenance of Sunni law and canonical worship a political necessity, Munni Begum's own response showed little theological dogmatism. Accordingly, where she had required the Sunnis in Murshidabad to perform their prayers 'under the fly of a tent' at the periphery of the Nizamut *masjid*, on being handed over the letter from the Governor General, she 'waived her objection to the ceremony being performed in the Musjid'.<sup>28</sup>

This apparent divide between personal faith and leadership of public prayers lay at the heart of the problem, given the fluidity and complexity of faith and ritual practices in the Nizamut. For apart from the syncretic *Behra* festival, when illuminated paper boats were floated on the Bhagirathi in homage to Khwaja Khizr to guard the waterways and protect travellers, there were many indications that underneath a formal Shi'ism, many life-cycle rituals were non-classical. For instance, alongside references to circumcision ceremonies of young boys were references to horoscopes prepared by 'Hindu' astrologers at the birth of a child.<sup>29</sup> The birth of a child, especially to a slave-concubine favourite of the ruling male, was prefaced by the *huftmasih* and *nehmasih* - ritual offerings of sweetmeats among all relations and friends in the seventh and ninth

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<sup>26</sup>G. Swinton, Dy.Persian Sec. to Govt., to R. Rocke, Superintendent of Nizamut Affairs, 18 Dec. 1810, *Murshidabad Nizamut: Letters Issued* (ed. J. Datta Gupta and S. K. Bose, Calcutta, 1965), (henceforth *MNL*), I, pp. 37-8.

<sup>27</sup>Enclosed in Swinton to Rocke, 1 Jan. 1811, *ibid.*

<sup>28</sup>R. Rocke to Persian Sec., 3 Jan. 1811, BPC, P/119/24, 19 Jan. 1811, no. 97.

<sup>29</sup>Letter of Mobaruck Ullee to AGG, n.d., BC F/4/1228/40155.

months of pregnancy, common to all communities in Bengal.<sup>30</sup> Similarly, among funerary rites were noted 'gift to a Brahmin', and in the case of a Nazim's corpse in 1824, the 'custom of the family to wash the body in the Ganges previous to its being carried to the Musjid'.<sup>31</sup> The lack of correspondence between the faith/customs of the household and the public law it upheld formed the first obstacle in the Company's fulfillment of the commitment of 1773 to administer issues of inheritance and succession in the Nizamut according to Islamic law.

However, the terms of that guarantee also relegated the maintenance of Islamic law to the sphere of the 'domestic' alone - that is to issues of marriage and succession - and thus undercut the political link between Islamic law and the ruler. This in turn set up a grave political and philosophical issue for the Company - the imagined relationship between canonical law and temporal sovereignty (state). Was the Nazim then a 'domestic' 'private' person to whom Islamic law was applicable, or was he a sovereign prince beyond the jurisdiction of the Company's law-courts? Furthermore, in a household-polity where Shia, Sunni and syncretist elements coexisted, by what criteria were 'marriages' and 'contracts' to be assessed?

### **Marriage in the Nizamut- Political Ritual and the Failure of Canon**

The rituals and forms of the canonical Islamic ceremony of marriage and the differentials of practice were particularly significant in the ways in which structures constituting the Nizamut were to be reformulated in the course of the nineteenth century. For those dispensing the funds of the Nizamut, the Agents of the Governor-General and their superiors in Calcutta, the need to test the processes of kinship-making in the Nizamut against textual law was of paramount concern. In 1826, pending the proposed nuptials of a new Nazim, Humayunjah, Melville, the AGG, found himself at a loss regarding the amount of expenditure expected on such an occasion, since there existed 'no precedent existing for any public ceremonial of the nature now contemplated'.<sup>32</sup> In fact, the Agent commented, comparisons were being drawn between the display made by the 'Calcutta merchants on similar occasions' and the display to be made by the Nazim. Certainly, the absence of a ceremonial did not constitute proof of a substantive kind: yet, an aspirant to the *musnud*, Ali Kadr, also claimed that

The Nawab Nazims were in the habit of raising their favourite ladies to the dignity of wives by merely pronouncing them to be such, and directing that they may thenceforth be styled Nawabs by conferring upon them *musnud* seat and

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<sup>30</sup>See evidence of Zummurood Ali Khan, eunuch Nazir of Amerunissa Begum, 2 May 1836, and of Darab Ali Khan, Eunuch Nazir of Nazim Humayunjah, 4 May 1836, IPP, P/194/15, 1 Aug. 1836, no. 84.

<sup>31</sup>W.Loch to A.Stirling, 1 Nov. 1824, *MNLI*, I, pp.551-2.

<sup>32</sup>Melville to Stirling, 22 Dec. 1825, BPC, 6 Jan. 1826, BC F/4/1040/28656.

other accompaniment [sic] honours.<sup>33</sup>

This was not a complete absence of ceremonial so much as the articulation of a political ceremonial, on the same level as granting of *khilats*. In other words, where the Company's agents looked for the 'domestic' ritual of canonical law, the political rituals that did exist in the Nizamut as markers of 'wifehood' were significantly different from those required by canonical law. Ameerunissa Begum, the head of the Mehalsera, reprimanded for conferring titles upon a woman called Sahib Jaun, explained that

It has been a long established practice in this Sirkar, to confer titles and Soojnees upon all those persons who become respectable by bearing children to the principal members of the family, or by ranking in the class of wives,... in order to make them equal with others.<sup>34</sup>

This kind of political ritual that endowed a woman with 'wifehood' represented the exact inversion of the trajectory that determined that legitimacy of a child followed from the status of a canonical ritual. In the Nizamut, a woman had to achieve sexual and political motherhood, before she could be elevated to the status of wife. Thus between 1800 and 1880 many slave-women came to bear different titles in the course of their lives depending not on, or the kind of ceremony, but on a range of other factors. As with Husseena, who held the title of Mehrlukha, the slave-girl's entitlements to the symbols of status, like the nose-ring, the *baina* (ornament for the forehead), the seals and the *sozni* (a special cloth for seating), followed from her bearing children to the Nazim rather than any individual ceremony of marriage. Therefore, it is not surprising that when asked for documentary proof of the marriage of the Nazim with Hasseena, her son should say 'it has never been the custom in our family to execute any "kabeenamah" on the occasion of any marriage of a Nawab Nazim.'

Significantly enough, by the end of the nineteenth century, the Government of Bengal had agreed to dispense with 'proof' of the canonical variety, since

no actual proof of *nikah* is forthcoming, but the Nawab Nazim's declaration that she was his *nikah* wife should determine the point ... when the forms of marriage are so indefinite and the distinction between formal and informal marriages so slight ... it is better to accept the views of the head of the house on the subject.<sup>35</sup>

Yet, this acceptance was a product not of the understanding of the political rituals that incorporated slave-women and their children into the Nizamut but on a degradation of the polity,

<sup>33</sup>Ali Kadr to the Agent to the Governor-General, 4 April 1877, BPC, P/1168, Jan. 1878, File 17 B, nos. 28-9.

<sup>34</sup>Enclosed in J.Caulfeild, AGG, to the Nazim, 26 June, 1838, *MNLI*, II, pp.210-11. Emphasis added.

<sup>35</sup>H. C. Cockerell, Offg. Sec. to GOB, to Sec. to GOI, Foreign Dept., 31 Dec. 1877, BPC, P/1168, Jan. 1878, 17B, no. 30.

of the ossification of the canonical meaning of *nikah*, the privileging of contract, and of a reconstructed 'Islamic' law. In the earlier part of the nineteenth century, the Company's agents and servants did attempt to represent the social world of the Nizamut in textual 'Islamic' terms. The premise of such attempts was the separation of the political from the 'domestic' realm, and the subsequent judgement of the latter in terms of the failure of canonical prescription. Thus, an official commented on the mother of the child of one of the uncles that it was 'doubtful whether the connection that subsisted between the Nuwab and these two females ever received any formal sanction, but in this respect they are on a par with the majority of the Ladies attached to the Nizamut, and may therefore, agreeable to custom, be termed *munkoohas*'.<sup>36</sup>

As the particularity of the taxonomy employed suggests, the British residents dealing with the affairs of the Nizamut had been trained in the course of their studies in Persian and Arabic especially for the political-judicial service of the Company. Their representation of these unions in strictly textual terms could not adequately explain the lack of convergence between the textual prescriptions of status - bestowing formal *nikah* and the differential in practice. In using this taxonomy, therefore, some recognised the customary and local meanings of terms which had classical textual equivalents. For example, an official deputed by the Government to Murshidabad, having described a woman as a 'munkooa widow' then noted in the margin for his political superior that

a *munkooa* wife is a wife of inferior rank, with whom the Ties of Marriage have been regularly performed, but without expense, or the observance of those external forms, which under the denomination of Shadee are customary on a public marriage, and which imply equality of rank between the parties marrying.<sup>37</sup>

If 'mankooa' denoted an inferior wife, did the slave-concubine merit another nomenclature? According to some agents they were to be called *mumtooah by nikah* and yet other slaves who had been hired for a specific term were to be called concubines 'by *nikah o'mutah*'.<sup>38</sup> This official then went on to clarify that '*mumtooah* described to me as a temporary compact inferior to *nika*, and renewable at the pleasure of the male party.' Yet this very taxonomy suggested the problem such officials were mired within - the presumption that specific kinds of textual compacts were the criteria of social rank.

The search for particular forms of canonical ritual rather than the complex hierarchies of jural and political status that made specific women subject to these rituals and contracts, led most

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<sup>36</sup>C.Thoresby to Macnaghten, 5 Dec. 1833, BPC, 19 Dec.1833, no.100 in BC F/4/1475/57976.

<sup>37</sup>AAGG Monckton to C. Lushington, Sec. to Govt., 23 Sept. 1817, BPC, P/120/72, 10 Oct. 1817, no. 36.

<sup>38</sup>See list in Superintendent of Nizamut Affairs to Persian Sec., 7 July, 1809, BPC, P/118/43, 15 July 1809, nos. 65-66.



civil servants to extremely detailed investigations into the ceremonies and compacts under which each woman was incorporated. Such investigations were of importance mainly when it came to recognition of particular males' or females' rights and claims to titles, honours and fiscal claims. On the occasion upon which Ali Kadr's statement was taken, there had been a full investigation of the status of his mother revolving entirely upon the form of the ceremony of *nikah*. The Agent, J. Muir, asked the mother of the reigning Nazim whether the position of the late Mehr-lakha Begum was that of *munkooah* or *mumtood*, to which she replied that though she knew nothing from personal knowledge, it

is the custom in the family on the occasion of a nika to send garlands, scents, and pan round to all. It was on these appearing, and my inquiring of the nazir (eunuch) of my deorhee, Firoz Ali Khan, why they had been sent, that he told me they had come in consequence of the nika of the nawab Nazim with Husseena... another reason why I gathered he had entered into nika with her and Mujleh Saheb's and Amir Saheb's mothers is, that it is only the custom to give the "nath" [...] and "baina" [...] to Munkooahs; and much later, when the Nawab Nazim brought all three to me to present their nuzzers, they all three were wearing those ornaments. This was before the *shadi* (marriage) with Nawab Shumsejehan Begum.<sup>39</sup>

As this evidence showed, the marriages of males of the Nizamut combined apparently homogamous (like with like) unions called *shadi*, alongside unions with those considered 'outsiders', with whom different arrangements like *nikah* and *mutah* occurred. The problem however lay in the constant movement of statuses among such wives. Even the homogamy of particular marriages was in fact a consequence of the political role of the mother, or senior matriarch, in every male's life. Where a non-slave woman was involved, marriage entailed bilateral obligations and a certain amount of ceremonial deference not just to the equal status wife but also to the household from which she came. A first generation slave-wife or concubine did not carry with her identical political aspirations that the family of a woman of the indigenous elite might have entertained, or the political leverage that they might attempt to exert. Yet it was in order to generate similar kinds of claims that each *gaddinashin* Begum of a deori 'reared' slave-girls, who would then be 'given' in marriage to a particular nazim or other male of the household. Therefore, each Nazim's, and other males', access to homogamous wives was predicated upon the processes of filiation and social reproduction within the harem.<sup>40</sup>

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<sup>39</sup>Cited in Report by W.J.W.Muir, 4 May 1877, BPP, P/1168, Jan. 1878, File 17B, nos. 28-9, Appendix B.

<sup>40</sup>For a suggestion that this was paralleled in non-Islamic hegemony's 'marriage' strategies, see P. C. Mahtab, 'The Bengal Nobles: A Status Group, 1911-19', *BPP*, 92, 1973, pp. 26-7. He notes that brides of 'lesser' status, 'made to lose all basic connections with their previous relatives and friends... grew from near infancy to womanhood in their bridegrooms' homes'. With reference to the Tripura ruling household, he notes that 'taking new-born female children into the household', and rearing them as *kaccha* brides,

In looking for the textual pre-requisites of marriage, British Agents were not just misled by the apparent coherence and applicability of a particular terminology, but also evinced no desire to challenge the modes by which specific heads of *mehals* stood forth as the social mothers and patrons of the slave-mothers and slave-born sons and daughters. In fact, officials even recommended that one concubine's daughter, Hussainee, be separated from the birth-mother - 'a Woman of Ill repute' - and be placed 'under charge' of the 'legal wife' of one of the sons of a previous Nazim.<sup>41</sup> The Government of Bengal though aware that such a measure might be objectionable, suggested that the 'family... find means of reconciling her to the surrender of the child'.<sup>42</sup> This kind of patronage was based upon the ability of each head of a *mehal* to nurture and rear a pool of 'kinless' beings who owed allegiance to the head alone and constituted a part, as well as gauge of, the wealth and power of each head of deori. As the memorial of one head of the Dacca *mehalsarai* put it in 1843, 'in the families of natives of rank especially in harems a number of females are maintained who have either lost their natural protectors or from other misfortunes are entitled to the commiseration of the charitable'.<sup>43</sup>

As in Dacca, so in the Nizamut *mehalserai*, the means by which many of these infant and young females could be accumulated included both purchase and birth from such purchased girls. As can be inferred from a letter of the AGG to the Chief Magistrate of Calcutta regarding a girl named Mobaruck Kudum found in the deori of Ameerunissa Doolhin Begum,<sup>44</sup> the anxiety of the Agent that she would not be able to identify her relatives in Calcutta was the only clue to the possible infancy of the girl when she had been sold for fifty rupees. Both first-generation acquisitions and second-generation assimilés in the control of matriarchs of ruling households were important precisely because their birth-fathers and mothers were not those from whom such progeny derived their filiation: their reproduction as 'sons' and 'daughters' of the lineage depended crucially on the matriarch head's command over material resources such as funds, clothes, and food. In turn, this material investment in a male or female infant, while 'socially' reproducing this child as a son or daughter, also reaped a wealth of allegiance, service and returns in the future, as by the 'marriages' of such sons and daughters, networks of clients and dependants could be arranged for the strengthening of particular factions within the Nizamut.

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simultaneously released both the grooms from affinal obligations, and any children born of competing bilateral claims.

<sup>41</sup>AGG Russell to Persian Sec., 4 March 1822, BPC, P/123/4, 11 April 1822, no. 128.

<sup>42</sup>Persian Sec. to AGG, 30 March 1822, *ibid.*, no. 129.

<sup>43</sup>Memorial of Hyatunissa Begum, 14 Dec. 1843, BPC, P/127/48, 26 Dec. 1843, no. 32.

<sup>44</sup>H. Torrens to J. H. Patton, 10 Nov. 1847, in *MNLI*, II, p. 450.

### **Making and Adopting Kin: Political Practice Against Canonical Injunction**

The dominance of the ideal of motherhood expressed two separate issues as though they were one: filiation of the child born of the slave, and claims of authority over both the slave-woman and her child, as over all other freshly acquired or first generation slaves. Despite the fastidious attention that individual British officers paid to issues of Islamic jurisprudence, few noticed the anomaly of describing various children within the *mehals* as 'adopted' daughters and sons. In the strictly textual tradition of Islamic laws, adoption is explicitly abrogated.<sup>45</sup> Even more anomalous then was the practice of women adopting daughters. Yet between 1770 and 1850, the records of the household seem to abound with adopted sons and daughters of various women, sometimes with the active participation of the Company's agents in dispensing such favours.

What was the substance of these adoptions and were they all alike? Any consideration of such 'adoption' has to take into account the specific situation within the household at a particular moment in a specific generation, as well as the broader question of inheritance of jural status where slaves were concerned. Sonship and daughterhood implied specific kinds of claims and obligations within the structure of the household. So when Munni Begum was described by Valentia as having 'adopted' a son, he did not fail to mention that the timing of this adoption coincided with a peak in the conflict between the ruling Nazim and the Begum - 'when at mortal enmity with the Nawaub'.<sup>46</sup> This adopted son appears in a record of 1818 under the name of Meer Gholam Ali Achay Sahib, Kaim Jung. Though married to a daughter of Ihteram-ud-daula, (brother of Mir Jafir) his children, 'two sons' born of a concubine were 'brought up and educated by Munni Begum', and their women in turn continued to serve the Begum and live in her deori.

But what were the antecedents of Kaim Jung? To comprehend the complex intergenerational movement of specific slave-born children into the group of 'kin', Kaim Jung was a good example. For his history was tied up to the daughters that the British officials had overlooked in 1765 when counting the 'family' of Mir Jafir. One such daughter, Misree Begum, born of a concubine other than Munni or Babbu, in turn had had a daughter, Jan Begum, whose 'marriage' with Mir Assud Ali had produced three sons, one of whom was 'adopted' by Munni Begum. Evidently, this selective adoption was a political 'manoeuvre of the Begum whilst she was

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<sup>45</sup>Fatima Mernissi, *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam* (New York, 1991), pp. 175-6. Thomas Strange, the Chief Justice at Madras, also characterised adoptions among Muslims in India as 'spurious' and 'unwarranted by the Koran' in his *Hindu Law* (London 1830, reprint Madras, 1859), I, p. 103.

<sup>46</sup>George Mountmorris, Viscount Valentia, *Voyages and Travels in India, Celon, the Red Sea, Abyssinia and Egypt in the Years 1802-1806* (London, 1811), I, p. 184.

at variance with the Nawab'.<sup>47</sup> However, if this particular adoptee could have posed a challenge to the Nazim, other such adoptees did not. Thus Najm-ud-daula, Munni Begum's uterine son, was reputed to have 'brought up' a boy named Rumzaun Ali, who was clearly listed as a *chela*.<sup>48</sup> Similar divergences existed in the eighteen-twenties among the adopted daughters of other heads of deoris, like the adopted daughters of Bahoo Begum, and of Ameerunissa Begum, both consorts of the Nazim Alijah.

The fact that the destinies of these sons and daughters were determined by the matriarch heads of the deoris, even though they were loosely filiated to some male as 'his' daughter or 'son' is significant for various reasons. Many of such 'adopted' children were born of mothers who had been slaves of the specific matriarchs. Thus as in the case of the daughters described as adopted by Ameerunissa (Doolhin) Begum and the Buhoo Begum, the birth-mothers had been the slaves of the Walida Begum (Faizunissa), and continued to serve the succeeding heads of the deoris. To quote the Agent

Beebee Azeemun is the mother of the eldest daughter, and she, with her child, have for many years past lived in the Muhul Seraie of the Dhoolin Begum. The Begum... upon the death of her own child adopted this girl,... The Bhow begum never had any children by His late Highness, and to compensate for the disappointment, he committed to her care and adoption the two other daughters who with their mothers Beebee Lootfun & Beebee Zeentunissa have lived with the Begum since then, and are in every respect members of her family.<sup>49</sup>

Yet not all slave-women gave birth sexually to children: they too 'reproduced' the wealth of a household simply by rearing infants handed over to them. As one of the *khowas* in the regime of Mubarakud Daulah put it in her petition, the Nawab had 'left with her an adopted son named Nasiruddeen Hyder...whom she nourished up from his Infancy'.<sup>50</sup> Similarly for 'daughters', concubines like Bunnee Khanum reared children like Mubarakunissa, who were not born of them, but of other women either in the household or located outside.<sup>51</sup> Thus in Dacca, in 1849, it was

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<sup>47</sup>Description by Monckton in Doc. K, *Mutfurcaut Sheristah*, BPC, P/120/45, 6 July 1816, no. 51. This phenomenon clearly resembled the institution of daughter's sons becoming heirs and successors to their maternal grandfathers found in other parts of India.

<sup>48</sup>For Ramzan's name on the list of *chelas*, see Doc. M, *ibid*.

<sup>49</sup>AGG Loch to A. Stirling, Persian Sec. to Govt., 14 Aug. 1824, *MNLI*, I, pp. 306-9.

<sup>50</sup>Petition of Surphunissa Begum to Charles Metcalfe, Gov-Gen. of India, n.d., BPC, P/127/29, 8 Dec. 1835, no. 24. When the AGG enquired of one of the remaining sons of Mubarakud Daula, he was told that the woman had been in the 'establishment' of the deceased Nazim, at whose death she had not been 'considered or provided for even as a *hurram* she was fed like the numerous other females attached to the [Munni] Begum's'.

<sup>51</sup>According to Dale the AGG in 1828, who reported the death of a woman called 'Nawab Bhye', she was the birth-mother of Mubarakunissa, the daughter of Mubarakud Daula I.

reported that one Hosseinee Begum had reared 'two young girls named Pearee and Larly... who were left under her charge, the former by Nawab Cummerdowlah and the latter by Nawab Gazeooddeen Mahomed and were maintained by her during her lifetime'.<sup>52</sup> Another such 'adopted child' of the Dacca household was initially 'made over' to the Nawab Ghaziuddeen when she was an infant by a 'wandering fakeer'; the Nawab, on his death bed, transferred her to his concubine Sultanee.<sup>53</sup>

However, the most important feature of such adoptions would be, as in the Nizamut, the rearing of purchased and slave-born ('adopted') female children as 'wives' of the reigning men. Thus in the 1840's, the *darogah* of the Dacca Nawab's Mother's Deori, asked to describe the antecedents of the two wives of the Nawab Ghaziuddeen Hyder, Roopkumar and Ameerun, answered that the previous Nawab Kummur-ud-daula

purchased the daughter of some respectable parents and kept her there...from their childhood. Roopkumar has waited on the Nawab 5 or 6 years, and Ameerun about 2 years. They do not recollect their parents, but sometimes call me their father'.

Another man who had served the establishment 'since his childhood' however claimed that the purchase had been made much earlier: 'Roopkuwar about 20 years, and Ameerun about 15 years since... Lal Mama Aseel told me that Ameerun was purchased for 22 Rupees'. A petition from 'Fyz oorf Ameerun Nissa' also states that 'she had been brought up from infancy by the late Kummurud Dowlah with the view of giving her in marriage to his son Ghazeeoodin Mahomed, but that before the Nuwab could fulfil his intention he died'.<sup>54</sup>

In a pattern repeated through the late eighteenth and nineteenth centuries, both apparently equal-status (homogamous) and other wives of the Nazims and the *Sahibzada* were similarly young women born of the differentially incorporated slave-women in each generation. Though we know that Siraj-ud-daula's principal wife was the daughter of the courtier Irich Khan, it was his concubine Lutfunessa, a slave girl named Rajkunwar, reared and gifted to him by his mother, Ameena Begum,<sup>55</sup> who has been aggrandised by historians as 'the epitome of ideal wifehood'.<sup>56</sup>

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<sup>52</sup>Collr. Dacca to R. H. Mytton, Commr. of Rev. 15th Divn., 5 Sept. 1849, BC F/4/2396/128775. Further investigation ordered by the Commr. of Revenue into 'the manner in which they have been treated in the late Begum's family vizt. as equals or as menials', elicited the information that Pearee had been taken when 'two months old and placed under the charge of Hosseinee Begum' and Larly had 'been maintained for ten months by Gazeuddeen' who on his deathbed, transferred her to Hosseinee.

<sup>53</sup>Mytton to Sec. GOB, 3 June 1850, and Collr. Dacca to Mytton, 15 May 1850, BC F/4/2433/133242.

<sup>54</sup>Enclosed in J. Dunbar to Foreign Sec. to GOB, 18 Sept. 1843, no. 8, BC F/4/2396/128775.

<sup>55</sup>*Seir Mutaqherin*, I, p. 94 and p. 187; also Sirajul Islam (ed.), *History of Bangladesh 1704-1971* (Dhaka, 1992), III, pp. 41-2. Most histories of this period mention the grand celebrations occurring over several days of the weddings of Siraj-ud-daula and his brother Akram-ud-daula in 1746: for a description of this event, which acquired legendary status, see Charles Stewart, *The History of Bengal* (reprint Delhi,

Though the origins of all such wives is difficult to establish, in a significant proportion of instances, these wives were born to slaves or been themselves purchased by the previous Head of the *mehalserai*, from where they were then taken into the harem of the incumbent ruler. The returns expected upon this gift were enormous: the children born of these women were claimed by the deori heads as 'grandchildren', and this further strengthened their authority over incumbent generations of Nazims and *Sahibzada*, as well as established fiscal claims in the wealth and holdings of the state as a share in the 'patrimony'. It was against infringements of this provision of 'wives' by deori heads that many matriarchs protested bitterly.<sup>57</sup>

Such infringements could occur because of the machinations of other courtiers, officials or servants contracting their women (slaves and non-slaves alike) to an incumbent ruling male. For instance, Badrunissa, the grandmother of the Nawab Ghaziuddeen of Dacca complained against two men who had persuaded the Nawab 'to marry and to settle, in addition to large dowries secured to them by written documents, handsome pensions for their support... to marry a low woman ... and to settle an allowance of 1500 Rupees per month for her maintenance [which] they punctually receive as soon as the stipend is paid out of the Collector's treasury'.<sup>58</sup> At other times such infringements occurred because the reigning male did not seek the permission of the deori head and thus denied her the status and control associated with gifting her 'reared' one as a bride. For example, Haseena, the woman in question in the 1870s, was described by the mother of the Nazim as

an African slave in my personal service ...I had made arrangements for her marriage ...when I discovered that my son, the Nawab Nazim, who was still living in my quarters (deorhee), had entered into a liaison with her. I also found he had entered into a liaison with the mothers of Mujleh Saheb and Amir Saheb (second and third sons), who were also two of my personal attendants. I was very angry and we had words, and the Nawab Nazim then and there carried all three off to his own quarters...afterwards he begged of me Haji Begum, who had been

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1971), p. 473.

<sup>56</sup> See Brajendranath Bandopadhyay, *Banglar Begum* (Calcutta, 1913), p.7. The exact words used to describe her are 'Hindu - Musalmaner adarsha patni'.

<sup>57</sup>Translated letter from Nujeebunissa Begum of 29 Rubeeus Sane 1247 Hijri, BC F/4/1456/57367. Her claim that it was not customary to acknowledge as 'sons' those born outside the *mehal* was substantiated by Darab Ali Khan in 1836 who said 'the nazim's mother was opposed to her son's having affairs with women out of the *zunanah*'.

<sup>58</sup>Budderunissa Begum to Dy. Gov. of Bengal, 18 June 1838, BPC, P/127/38, 18 July 1838, no. 6. For one of these women who claimed a 'nicca' [nikah] marriage with the Nawab, and thus the status of widow after his death, see petitions of Goolzar Begum, 4 Feb. 1844 and 25 May 1846, BPubC, P/13/58, 3 June 1846, nos. 81-84.

entrusted to my charge by her father...she is now the Malika Zumaneah Begum.<sup>59</sup>

The ability to command control over the first-generation acquisition as well as the second-generation child lent particular significance to the destinies of the concubines' daughters. Both as slave-born or concubine-born, and as daughters, they were critical for the very survival of the Nizamut. Such daughters expanded the group from which the *Sahibzada*, nephews and grandsons could take 'homogamous' wives, under the control either of the men's mothers or their own deori heads and stepmothers. Whatever *mahr*/dowry claims were created in these exchanges and transfers, resources still circulated within the Nizamut. However, the group of potential mates from such 'homogamous' unions also tended to reach a limit over time. Since some degree of 'affective' intragenerational assimilation of these 'daughters' in turn created a visage of 'incest' when married to males of the holding group, sexual reproduction by these assimilés tended to peter out over time. Or the dangers of having completely 'free' children, with claims of bilaterality, was so great that sexual reproduction by these homogamous wives was prevented either through foeticide, or distancing stratagems. Thus both Ameerunissa (born of a concubine's daughter, and 'first cousin' and homogamous wife of Nazim Alijah) was childless, as was Khurshed Mahal, second cousin and wife of Nazim Humayunjah.

Moreover, the patterns of status inheritance and control over children born of the concubine's daughters in the first generation also ensured a subtle manipulation of reproductive strategies. Since children born of these unions were not claimed by the grooms but by the Nizamut matriarchs, each male who took such a daughter as wife simultaneously created a lineage of his own through a 'third' force - the contracting or buying of slave women from men and women not amenable to the matriarchs. Thus a pattern of demographic failure on the part of homogamous wives was coupled with sexual reproduction from freshly acquired slave-wives and concubines. This is evident in the lives of the three such wives of the Nazims between 1800 and 1845. Alijah's homogamous wife Ameerun produced no living child, but he left three daughters by other concubines. One of these daughters, Omdutoonissa, born in a slave-servant's (a *chabooksawar*) house, was in turn married under the auspices of Ameerun, to another Nazim, Humayunjah in 1826 - this marriage too produced no children. Humayunjah's son and successor to the *musnud* was born of yet another slave-concubine, albeit a hired one.<sup>60</sup> Faridunjah, in turn, married a

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<sup>59</sup>Cited in report of AGG, W. J. W. Muir, 4 May 1877, BPC, P/1168, Jan. 1878, 17 B, nos. 28-9.

<sup>60</sup>Two different reports exist to substantiate this: one by the AGG, reporting the birth of a son to Humayunjah on 29 Oct. 1829, which meant that he had 'three children alive - namely a son and two daughters... all the offspring of concubines' in Dale to Stirling, 15 Nov. 1829, BPC, P/126/6, 20 Nov. 1829, no. 51. The birth of this son had followed the death, in 1828, of another son, born presumably of another concubine, since AGG Melville had refused to pay the correct condolence on this occasion because the child was 'illegitimate'. See Melville to Stirling, n. d. [circa 1828] BC F/4/1228/40156. Neither officer mentioned the 'homogamous' wife of Humayunjah as the mother. The details of the birth of Faridunjah were the cause

daughter of one of the concubines' daughters in 1845. Yet his heir and successor was, as the evidence of the 1870's indicated, the son of a slave belonging to his mother. Thus slave-concubinage both produced over time a cluster of homogamous marriages, at the same time that it provided alternatives to homogamy itself.

At the present it is impossible to discern any specific codes by which the childlessness of the homogamous wife was reproduced. However, since in the Nizamut, such homogamous wives were born of slave-women to presumably free fathers, such childlessness was important. On one hand it revealed the limits of their jural incorporation as half-sisters or cousins within the lineage, and as wives, since they did not reproduce 'free' members of the lineage themselves. The opportunities for establishing matriclaims upon the Nizamut then required establishing control over other slave-women who bore children to the Nazims.

This general childlessness of homogamous wives is possible to decipher through a large belt of territory in India in the nineteenth century. How this was connived at is not clear, but it could not have been either exclusive to Islamic households nor only accidental. There is sufficient proof of its elevation to something like a 'policy' across several generations in a non-Islamic court, as one Rani of Bharatpur attested to. Claiming a custom 'for centuries throughout Rajpootana', she stated that from the time of

Takoor Buddun Sing, the founder of the Bhurtpore family, and father of Maharajah Soorujmull, who died in the Christian year 1754, upto the present period of 8 successive Rajahs, no one has left a son born of a Rannee, but the successive heirs have all without exception been sons born of female slaves and **adopted** by the Rannee for the time.<sup>61</sup>

A similar childlessness is noticeable in the Marathas, especially among the royal wives of the Holkars, as well as among ruling houses in central India.<sup>62</sup> Similarly, in the case of the Raja of Birbhum, Mohamed Zaman Khan, it had been noted that in 1794, his 'royal' wife, the daughter of the Raja of Kunukpur, had been married to him, and come to stay with the Raja's mother;

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of the investigations of 1836, IPP, P/194/15, nos. 85-87, and P/194/16, nos. 90-93.

<sup>61</sup>Memorial from the Rani of Bharatpur to the Chairman and Court of Directors, n.d., BC F/4/1350/53514. The list provided by her shows two separate columns against the name of each Raja - one for the name of his Rani and the other for the name of the 'Dasse' whose son had been adopted by the Rani. For similar claims by the Rani of Kalyan Singh, former naib Nazim of Bihar, that all the slave-concubines and their children were 'obedient' to her, see BPC, P/123/29, 9 May, 1823, no. 158.

<sup>62</sup>For the Bundela Raja of Datia, see BC F/4/1498/58823. The Agent of the Governor-General in Bundelkhand, Ainslee, recommended to the raja that it was 'desirable' to select the son of 'one of your Relations' to which the Raja replied 'none of my Relations have a Son whom I wish or who is fit to succeed me', 28 Oct. 1830.



'after continuing here for six months and the Raja never going near her',<sup>63</sup> she resided with her own father. Meanwhile, he had 'two of Goopee Tanadar's daughters', one of whom was described as 'being with child' as well as 'two very young girls', Jaun and Maun, at Husanabad, who 'always wish to depart, but he will not suffer them,...kept by his Order in his Bungalow there, with Peons over them'. This impression is strengthened from the list of his household submitted after his death, which is headed by the 'married Ranny' who has no children listed against her name but one who is termed 'neckye' and eleven others are shown to have been mothers of children between the ages of one and eight years old.<sup>64</sup> The systemisation of this pattern is again suggested by the fact that the previous Raja, Bahadur Zaman Khan, had himself been born to a slave-girl belonging to Asad-us Zaman Khan's mother;<sup>65</sup> he, in turn, was said to have 'kept' the daughter of Punna Bai, a 'nautch woman', as well as one girl from the set of Tunsook Bai, from whom he had two sons respectively.<sup>66</sup> Asked by the Court whether he had ever 'heard of the head Ranny after coming to her husband's house returning to her family during her husband's lifetime', one witness had replied that this indeed was the custom.<sup>67</sup>

Given this pattern of distance between homogamous spouses, the political role of slave concubines, and their children, especially their daughters, in extending the network of kin and clients was important to the polity as a whole. For one, though the Company's records are remarkably negligent of this issue, succession to the *musnud* prior to the intervention of the Company seems to have devolved through daughters. Murshid Quli Khan had favoured the succession of his daughter's son, Sarfaraz Khan, only to have the husband of his daughter intervene. Alivardi Khan, who usurped the *musnud* from Sarfaraz, in turn favoured the youngest daughter's son, whom he is said to have adopted as his successor as Siraj-ud-daulah. In turn, Siraj's accession was opposed by another of Alivardi's daughters, Ghasiti Begum. The successor to Siraj, Mir Jafar too was related to the Subahdar through his marriage with the 'half-sister' of Alivardi Khan, and had thus counted as a brother-in-law. In turn, he seems to have lived in some fear, and distrust of, Mir Qasim, married to the daughter born of Jafir's union with Shah Khanum. Yet she was by no means the only daughter in the household of Mir Jafir. Four decades later,

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<sup>63</sup>Evidence of Buddun Metre, in Extract Progs. of the SDA, 6 July 1796, J. H. Ernst, Actg. Collr. of Beerbhoom vs. Raja Mahomed Zaman Khan, BC F/4/19/767.

<sup>64</sup>List submitted by W. Cowell to Board of Revenue, 13 April 1802, BC F/4/167/2939.

<sup>65</sup>John R. Mclane, *Land and Local Kingship*, p. 227.

<sup>66</sup>Evidence of Mohammed Jummil and of Dilawar Zaman Khan, SDA Progs. F/4/19/767.

<sup>67</sup>Evidence of Motyollah, *ibid*. One of the sons of Kalyan Singh urged a similar pattern of homogamous wives living apart from husbands, and the latter residing mainly with slave-concubines, in letter to Govt., 1 April 1823, BPC, P/123/29, 9 May, 1823, no. 157.

upon the death of Munni Begum it was discovered that there had been at least two other daughters whose claims upon the Nizamut had been acknowledged by Munni Begum. Though this, by no means, proves the existence of a structure, avunculineal or otherwise, it certainly draws our attention to the possible kinship strategies at work in the acquisition of grooms for such daughters.

Just as women were made Begums by the favour of the Nazim, certain men became *damads* (son-in-law) by virtue not of a particular sacralised ceremony but by virtue of the *damadi khilat* bestowed on them. The value of these may have risen over time. In the accounts submitted by Manick Chund, the Dewan of Munni Begum, to the Committee, it is said that 'the distribution of khillauts occasioned at least 7000 Rupees each time'.<sup>68</sup> Both the financial expenditure incurred in these, as well as the political implications of such grants, worried the Agents and the Government of Bengal. One way of regulating both was the device of setting up of a fund (from deductions from the sixteen lakhs annuity) for the marriages of daughters, a device first thought up in 1796. By the 1820s, this money was in turn being used by the Agents and the Nizamut stipendiaries alike to fund the marriages of numerous daughters, many of whom were described by the Agent either as 'adopted' or as 'illegitimate'.<sup>69</sup>

Peirce has argued that in the context of the Ottoman dynasty, a standard feature was the making of the highest ranking members of the male slave elite into imperial *damads*.<sup>70</sup> By thus enhancing the status and authority of the official, *damadhood* created a strong bond of personal loyalty and indebtedness to the sultan and to the whole dynastic family. For Murshidabad, however, the determination of the status of these men - slaves or freedmen - is dependent entirely

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<sup>68</sup>Letter of Pattle, Rocke, Hayes, to Sec. to Govt., BC F/4/249/5601.

<sup>69</sup> Enclosure 1, in AGG W.Loch to Persian Sec. to Govt., 30 Aug. 1824, *MNLI*, I, pp. 317-321. A scrutiny of this list, compared with evidence of other files, reveals that the apparent 'cross-cousin' marriages that were being funded were unions between various concubines' children, male and female. Thus in one instance, the daughter of Meer Munglee is proposed to be married to the son of Oomdah Begum. Both Munglee and Oomdah are normally referred to as 'son' and the 'youngest daughter' of Mubarakud Daula I respectively. Like Munglee, born of a slave concubine, Oomdah too was born of the concubine Brijmahabuksh, and was reared in the mehal of Mubarakud Daula's mother Babbu Begum vide AGG Russell to H.T.Prinsep, 23 June 1821, BPC, P/122/58, 7 July 1821, no. 76. Oomdah's marriage with Taleb Hussain Khan brought in not only Oomdah's son called Wahed Hussain Khan, but also Taleb Hussain Khan's other slave-born children, for which see AGG Ricketts to Persian Sec., 21 Nov. 1822, BPC, P/123/24, 7 Dec. 1822, nos.56-57. Three of these daughters, born of Taleb's concubine Lutfunissa, were then 'married' into the Nizamut, as revealed in Loch's list of 1824. A similar deduction follows from the consideration of other names on Loch's list, like that of the daughter of Mubarakunissa Begum. The latter was also one such daughter of Mubarak brought up by Bunnee khanum. Mubarakunissa's marriage with Yasubuddeen brought in Yasubuddeen's slave-born children as well as his children with Mubarakunissa. As for the marriage of the daughter of Ruhimunissa with the son of Torab Ali, see section on inheritance disputes.

<sup>70</sup>Leslie Peirce, *The Imperial Harem* (New York, 1993), p.65.

on vague ascription,<sup>71</sup> and on their upward mobility in the scale of stipends.<sup>72</sup> Some of those who counted as *damads*, like Mirza Daood, an Ispahani merchant with whom Munni Begum appeared to have had certain building contracts, and Khalilullah Khan, came from outside Bengal. Others like Yasubuddeen Ali Khan and Acbar Ali Khan Shamsheer Jung appeared to have already been nephews or junior kin: the latter is likely since Shamsheer Jung was also a concubine-born son of the Rajmehal household (of Ihteramud Dowlah, brother of Mir Jafir), with little independent wealth or property of his own.<sup>73</sup> The choice of these men as *damads* may have been dictated by the same kind of criteria that governed the policy of concubinage for the Nazims; too well-connected a man may have endangered the ruler. Furthermore, as the Nazims were pushed more and more into a fiscal corner, the impetus may also have been economic: as Mubarakud Daula himself put it, it was preferable to get sons-in law 'from families where he can avoid heavy expenses'.<sup>74</sup> As one Nazim said of one such *damad*, Himmait Ally Khan Behader Rustum Jung,

he was not of very illustrious or distinguished Birth still his parentage was respectable & therefore my deceased father invited him from Benares to give him his niece in marriage daughter of his own sister & invested him with a high Title and settled upon him a Stipend of Rs. 1200 per mensem exceeding that granted to his sons by marriage with his own daughters above whom he also greatly distinguished Rustum Jung....<sup>75</sup>

Significantly enough, there is another aspect of the treatment of *damads* that argues for the choice of less powerful men: the established practice for the Nazim to reclaim the marriage portions of the females of his family. This was evident not just in the case of Murshidabad itself, but also in

<sup>71</sup>For instance, a man called Hakeemjung, whose wife was counted by the Agents in the group of 'grand daughters' of Mubarakud Daula (daughter of Salihutoonissa begum, aka Motee Begum, a daughter of Mubarakud Daula) was described as the 'Mootuburra' of Munni Begum, vide AGG Sotheby to Prinsep, 19 March 1823, BPC, P/123/35, 29 March 1823, no. 93. This is a mis-spelling of the term *mudabbara*, or a slave with whom there has been an agreement of freedom or *tadbir*.

<sup>72</sup>In the case of Torab Ali, the husband of Rezeeatoos Sultan, this is implied because his name figures in the list of 1802 among the *Shagird Peshas* on a very small stipend. This explains his struggle to actually receive the stipend of his 'wife' in 1808-11. About this attempt, Munni Begum was to say, 'before marriage he lived upon twenty six rupees, is it not very unreasonable ...that now instead of being satisfied with three hundred and fifty rupees ... he claims four hundred more ....' For further details see BC F/4/308/7064 and F/4/332/7633.

<sup>73</sup>For Shumsher Jung's antecedents, see AGG Cobbe to Macnaghten, 29 June 1833 in Extract Poll. Cons. of 11 July 1833, BC F/4/1475/57976. For two other *damads* from the Rajmehal household, Taleb Hussain Khan and Yasoobudeen Ali Khan, see Schedule I in C.E. Trevelyan to AGG Thoresby, 13 Feb. 1834, *MNLR*, I, pp.286-7. Taleb Hussain Khan, married to one of the daughters of Mubarakud Daulah I, Omdah Begum, was described as 'illegitimate' son of Abool Cassim, late Nawab of Rajmahal in AGG Loch to A. Stirling, 10 Sept. 1824, BPC, P/123/77, 8 Oct. 1824, no. 38.

<sup>74</sup>*CPC*, IX, no. 1059, p. 232.

<sup>75</sup>Translation of a letter from the Nawab, 16 October 1808, *MNLI*, I, pp. 97-8.

the houses allied to it, like for instance those of Reza Khan's family, from where a son-in-law of Soulut Jung (grandson of Reza Khan) complained that on the decease of his wife, the daughter of the Nawab, he had been deprived of all his effects which he had taken with him when he went to live in the house of her father.

This aspect of post-marital residentiality, of grooms in the house of the wife's family, identified by sociologists as uxorilocality, and the near-adrogation that was implicit in these marriages, was characteristic of the lives of the sons-in-law of the Nazims. For instance, one daughter of the Nazim Mubarak-ud-daula I, Badrun-nissa lived with her husband Shams-ud-daula in the palace, till the latter was convicted of conspiring to overthrow the East India Company in 1799, exiled from Murshidabad and allowed to reside in Dacca,<sup>76</sup> from where eleven years later he pleaded to have his wife sent to him. On this occasion, the Agent noted that it would be the first time that a woman of the family had left the Killa.<sup>77</sup> Similarly, the husband of one of the women identified as a 'grand-daughter', fought a long and unavailing contest with Munni Begum to remove his wife from the killah to a rented house.<sup>78</sup> On this occasion a bewildered Superintendent, noting that the matriarch would not relinquish her 'right to control' this granddaughter, demanded that she be sent to 'her husband's residence which is ... situated within this city'.<sup>79</sup> Another *damad*, Shumsher Jung, who fell foul of the newly appointed Nazim Walajah, and was asked by the Agent not to intervene in the affairs of the deori where his daughter Ameerunissa ruled, was described as living in the city while his wife, one of the 'daughters' of Mubarakud Daula, lived within the Killa.

Though the Ispahani *damads* do not seem to have taken up permanent residence among the *Sahebzada*, the general pattern of uxorilocality amongst the *damads* raised further questions about the nature of the 'marriage' itself. If one scrutinises the lives of these daughters and *damads* over the period that the records allow, a very subtle relationship emerges between wealth creation and lineage formation, which suggest that these so-called marriages of the daughters of the Nazim were extremely complex transactions. If these 'marriages' had been intended to have created permanent political alliances, they failed. Both the Ispahani *damads* and the Murshidabad based

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<sup>76</sup>Extract BJC, 18 Dec. 1800, Progs. of trial of Shums-ud-daula and others, BC F/4/128/2371; Nandalal Chatterji, 'Shamsuddaulah's Intrigues Against the English', *BPP*, 53, 1, 1937, pp. 31-34; and N.K.Sinha, 'The Case of Mirza Jan Tuppish: A Treason Trial of 1800', *BPP*, 72, 1953, pp. 39-42.

<sup>77</sup>Extract Poll.letter from Bengal, 2 Feb. 1808, BC F/4/247/5567.

<sup>78</sup>Extract Poll. Cons. 20 March 1809, BC F/4/308/7064.

<sup>79</sup>Pattle to Munni Begum, 6 April 1808, *ibid.* In the same collection is a letter from Munni Begum regarding the resourceless state of Torab Ali: 'when he married he resided with his wife in Salia Begum's house ... went from thence to reside in a house at Akram Gunge, which is very much out of repair and by no means private'.

grooms had very tenuous relationships with the 'wives' who were daughters in the Nizamut: death and the swings of political fortunes within the Nizamut ensured quick separations, sometimes after the birth of a child. In at least two instances, the death of one such wife led to remarriage with another of the daughters of the Nizamut, leading very often to bitter disputes between rival factions over the dower and inheritance claims when such a *damad* died and such a daughter became a widow.<sup>80</sup> Even more significant was the apparent suspicion that attached to these grooms, since guarantees were sought to be procured by the matriarchs from these men through 'marriage settlements' promising extraordinary sums of compensation as *mihir* should these grooms set up alternative lineages.<sup>81</sup> In other words, though Nazims signed no *kabinnamahs*, these lesser males did: did this differential reflect on the function of the document that so much 'legal' emphasis was laid upon?<sup>82</sup>

Clearly, the attempt to create clients, rather than permanent and equal-status allies, through the control of concubines' children itself explained the existence of slave-concubinage in the core of the ruling group, so that every Subahdar and Nazim had control of the largest number of such girls and women through whom the extent of one's followership could be increased. At their simplest level, these 'gift-giving' transactions in which the girls gifted were themselves slaves or born of slaves, but over whom the claims of their original owners continued, were only usufructuary and of fixed durations. The children born of these unions were claimed by the Nizamut, and in the language of the claimants, been 'protected' and reared with their mothers in the *mehalserai*. At their most complex, the transactions in such girls approximated to loaning the

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<sup>80</sup>See below a discussion of disputes over the property and stipend of Shahamut Jung, *damad* through marriages with Afzulinissa and Ruheemunissa Begum, BPC P/118/48, 10 Oct. 1809, nos. 54-59, BC F/4/312/7131, and over the estate of Rustum Jung *damad* through marriages with Shumsuddeen Begum and Sharokh Begum, BPC, P/118/43, 15 July 1809, nos. 63-66, P/118/48, 3 Oct. 1809, nos.44-46 and BC F/4/304/7006 and F/4/333/7635. The latter contest is even more significant because Sharokh, though described by the Agents and Superintendents as the 'granddaughter' of Babbu Begum initially, was not just born of a slave concubine, but was also 'deranged'. What kind of marriage then had been arranged between this woman and the *damad* may be worth investigating. After Munni Begum's death, the Nazim Alijah handed over control of 'her person' to various men 'on condition of receiving a large portion of her stipend' vide AGG to E.S. Montague, 10 July 1822, BPC, P/123/15, 9 Aug. 1822, no. 70.

<sup>81</sup>Petition of Noorunissa Begum, daughter of Mubarak-ud-daula I, to Governor General in Council, 29 May 1837 in BPC, P/127/35, 4 July 1837, no. 21. She too was taken 'as an infant' into the deori of Bubboo Begum and married to a man called Meer Mohsin Salabut Jung. She claimed that according to the practise of 'our family' and her 'eleven other sisters', the groom had solemnly promised to 'abstain from illicit intercourse with other women on pain of forfeiture ... as guarantee for the faithful discharge of this and other obligation as a husband he settled on me a marriage portion amounting to seven lakhs of rupees claimable by me'. A study of the total of four petitions that were given in by her reveal that the groom and she had separated at least twenty-five years before this date, during the reign of Nazim Nasir-ul-mulk Babar Ali.

<sup>82</sup>This differential would partially explain the difficulties the Government of Bengal faced in the 1870s in enforcing registration of 'Muslim marriages'.

usufruct, which required payments in cash closely resembling the *mahr* of free marriages. So critical was the wealth and influence manipulated by the contracting of these slave-born daughters, that their control became one of the focal issues of conflict between contending deori heads as well as between the deori heads and the Nazims at different points.

Especially visible in cases of childless Begums, like Ameerunissa, who alone among the *gaddinashin* Begums had not been elevated to this position by virtue of having given birth to a Nazim, her 'gift' of Alijah's concubine-born daughter to a young Nazim in 1826 finally achieved for her the motherhood of a male that was a prerequisite to authority over other women. Thus Ameerunissa's fostering of specific kinds of daughters was contested by the reigning Nazim in 1824, Walahjah, who it was reported, had begun to 'prepare for the marriages of his three neices, the daughters of his late brother', Nazim Alijah. The contest over what superficially appeared to have been an avuncular and patriarchal privilege, was actually a battle for the control over female children between the ages of 8 and 14 who had been born to the slave concubines of the previous Nazim.<sup>83</sup>

The Begums claimed that both precedent and right was on their side in the matter of the marriages of these girls: not only had all such 'daughters' of Mubarak-ud-daula been thus 'bestowed' by the heads of the *mehalserai*, but also that this right had been 'confirmed to them by the act of their husband who had committed those children to their care'. The Agent clearly believed that this was 'a rule that ought to be observed'. Besides, he suspected, that the Nazim's demand of three lakhs of rupees from the Government as 'marriage portions of his nieces' was pretext for procuring 'a large sum of money to be put at his disposal'. Insufficient as an explanation for the desire to control such slave-born daughters, it was the wider strategies of clientage-creation that could provide a better insight into a direct political investment in such daughters. Bestowing a wife was simultaneously a political act in that it reinforced the deference owed by the bride-receiver to the bride-giver, and an economic transaction, related to the protection afforded in law to the financial estates of wives. The theoretical principle was that the *mahr* (dower) paid by the groom became the property of the wife. By extension, if such a wife was also the slave-born adoptee of the Begums or of the Nazims, the wealth that accrued to her in 'dower settlement' came directly to the coffers of the bride-giver. Thus both the *mehal* heads and the Nazims tried to expand their resources of human and inanimate wealth by manipulating the 'marriages' of such daughters.<sup>84</sup> Even in the 1840s and 50s, this concern was evident in the

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<sup>83</sup>AGG Loch to A. Stirling, Persian Sec. to Govt., 14 Aug. 1824, *MNLI*, I, pp. 306-09.

<sup>84</sup>For the conflict over the choice of grooms for three of Alijah's daughters, Bahoo Begum choosing men born of women in her faction, and Ameerunissa choosing grooms from her faction, see Poll. Letter from Bengal 3 Oct. 1829, BC F/4/1228/40157.

machinations of the Nazim to marry two such daughters to the sons of the Vazir of Awadh, though Awadh had explicitly spurned an earlier attempt.<sup>85</sup> Noticeably, the slave-women who had borne these daughters were neither the initiators of such 'alliances', nor the beneficiaries of the dower claims upon the estates of the *damads*. Nor, when such *damads* died, were there claimants other than their 'own' slave-born lineages - no fathers/uncles, mothers/aunts, or siblings.

### Marriage Claims, Inheritance Disputes and Islamic Law

The patterns of preference for slave-concubines for the establishment of claims over children, which underscored the apparent unilineality and patrilineality of the Nizamut, conditioned the conflict between *damads* and Nazims on one hand, and the deori heads and the males on the other. Though these contests were about political privilege and issues of control over slaves, the Company's agents and administrators tried to frame them as though they were issues of Islamic 'family' law. The ways in which Islamic law itself was fashioned and then marginalised was of particular relevance to a consideration of issues of inheritance of status and of wealth in the Nizamut, revolving in turn around strategies of heirship and of marriage.

There were broadly two phases in the Company's resolution of the applicability of Islamic law vis-a-vis the Nizamut. In the first phase, which coincided with the reign of Munni Begum till her death in 1813, the issues were framed in terms of the application of particular schools of canonical law. This framing of the issues obscured the contingent nature of the Company's own stake in the settling of such issues. As an instance we shall examine two interrelated claims within the Nizamut.

In October 1808, the Superintendent of Nizamut Affairs reported the death of one of the *damads*, Rustum Jung<sup>86</sup> and conveyed his suspicion that the 'considerable property' of the deceased, claimed both by the reigning *gaddinashin*, Munni Begum, and by the Nazim, Nasirul mulk Babar Jung, would be better applied to 'afford a comfortable provision' for the slave-born children who would otherwise become 'burthensome' on the Company. The Government of Bengal directed the Superintendent to resume the *damadi* allowance of the dead man; as for the rest of the property, the claim of the Nazim was based on the fact that Rustum Jung's wealth was a result of his marriage with his father Mubarak-ud-daula's sister's daughter. The basis on which Munni

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<sup>85</sup>See correspondence on the marriage of the daughters in BC F/4/2708/194269. The absence of expense-accounts for these marriages, significant in the context of a close surveillance of expenses by the Government of Bengal, would suggest that they did not occur. For subsequent accounts of expenses for the marriages of the daughters, and *damadi Khilats*, see BPC, P/263, Dec. 1874, file 254A, nos.1-2; P/927, Feb. 1877, file 17, nos. 3-4, and April 1877, file 17, nos.1-3 and P/1168, Jan. 1878, File 17B, nos. 28-9.

<sup>86</sup>Superintendent of Nizamut Affairs to Sec. to Govt., 19 Oct 1808, BPC, P/118/30, 14 Nov. 1808, nos. 35-38.

Begum claimed the property of the *damad* Rustum Jung, when the blood-related heirs of the 'father' of Sharokh Begum were alive - like Khalilullah's sons, as well as Miran's heirs like Syed Murteza - was the 'deed of Gift' by which the owner/mistress, Saliha Begum, transferred her 'establishment' to Munni Begum.<sup>87</sup>

Both claims were referred to the Qazi ul Quzat of the Sadr Diwani Adalut. As the Government saw it, recognition of the Nazim as 'legal heir' was dependent on the size of the wealth/ estate estimated to be held by the deceased person. In this instance, the estate was appraised to be substantial:

it would have been right that property so considerable as 55,000 Rupees should be brought to account and applied to the payment of His Highness's debts to the Company. In no case ...could His Highness be allowed to succeed to property of such extent without rendering an account of it to Government which... is entitled to claim the application of any available assets to the reimbursements of the amount [debt to the Company].<sup>88</sup>

This in turn led to considerable convolutions in the representation of doctrinal law; and the upholding of one over another school of inheritance. The Qazi ul Quzat and the maulvis gave a decision according to Sunni law, while observing that there was no objection to the recognition of Shia law should the two parties (Munni Begum on behalf of Sharokh the concubine's daughter, and the Nazim on behalf of Shumsuddee, his father's niece) claiming the property wish it so. The Government of Bengal not only disallowed this accommodation in principle, it deliberately misinterpreted the decision of the Qazi ul Quzat. Thus though the *fatwa* of the Qazi ul Quzat decreed that all property proved to have belonged to Shumsuddee Begum either as marriage portion from her family or gift by her husband was to devolve on her husband and on her own relations on 'the male side', the Government of Bengal decided that the Nazim could not claim because he was not kin 'by the male side'.<sup>89</sup> This was a travesty of the truth: both the Nazim and the Babbu Begum had claims on Rustum Jung because of their relationship to Mubarak-ud-daula. (Note that there were no claimants on behalf of Shumsuddee's father). Intent on the admission of Rustum Jung's own slave-born children to the inheritance in order to pre-empt any claims on the stipend of the father on their behalf, the interpretation of legal doctrine itself was subordinated to secular exigencies. Particularly since the Superintendent reported that in the opinion of the Sunni maulvis of the Provincial Court for Murshidabad Division, the concubines taken in *mutaa*

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<sup>87</sup>From Fuzeelutunissa Begum, recd. 31 Aug. 1797, BPC, P/116/31, 6 Oct. 1797, no.27.

<sup>88</sup>Extract Poll. Letter from Bengal, 18 Oct. 1809, BC F/4/304/7006.

<sup>89</sup>Translate of the Answer by the Muhammadan law Officers of the S.D.A. and Monckton to Pattle, 28 April 1809, BPC, P/118/40, 6 May 1809, nos. 87-88.



(Soortellee and Daodee) and their children were not entitled to any share of the *damad's* property,<sup>90</sup> both the Government of Bengal and the Superintendent quickly changed their preference. Now the Shia law of inheritance was forwarded as the law by which matters were to be decided, because belatedly, it was discovered, that school allowed the wealth left by the deceased to pay for the maintenance of the slave-and concubine-born children.

Thus, despite holding the Nizamut hostage to Sunni canonical forms of public worship, the Government of Bengal proceeded to now uphold Shia law of inheritance, and apportion the estate of the deceased *damad* thus: 2/16th to the woman supported by Munni Begum as the sole surviving 'widow', Sharokh, and 14/16th of the estate to be divided up into seven shares which included the children born of the *mumtood* women.<sup>91</sup> Fully aware that the interests of Sharokh (and Munni Begum) were not compatible with the partibility of the estate in the manner proposed by the Government, the latter then invoked another doctrine from canonical text - the doctrine of *iqrar* or acknowledgement. Arguing that Rustum Jung always 'acknowledged his illegitimate offspring to be his children, ... and as it was not to be supposed that he would have publicly pronounced them to be illegitimate', the Governor-General in Council decided that they might be considered to be entitled even according to the Sunni law to participate in their father's property, - 'in the same manner as if they had been born in wedlock'.<sup>92</sup> Such cynicism affected the lives of both the slave-born daughter whose person and property was controlled by Munni Begum, as well as the other slave-concubines and their children. The Government knew full well that the claims of the slave-concubines taken in fixed-time contracts to a share in the property of Rustum Jung depended upon their ability to prove that the sums promised in payment had not been met. The Government of Bengal believed that it was 'probable ... that they have no such claims since the sums given on those occasions being generally inconsiderable are usually paid at the time when the engagements are contracted'.<sup>93</sup>

Within ten days of this decision of the Government, a claim for the payment of 68,000 rupees as 'marriage' settlement was submitted, on behalf of Sharokh Begum, by Munni Begum, complete with a *mihinama* bearing the seals of other *damads*.<sup>94</sup> This effectively stymied the

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<sup>90</sup>Translation of Answer returned by the Law Officers of the Provincial Court of Murshidabad in Superintendent of Nizamut Affairs to Persian Sec., 7 July 1809, BPC, P/118/43, 15 July, nos.65-66.

<sup>91</sup>Ibid.

<sup>92</sup>Monckton to T. Pattle, 3 Aug. 1809, BPC, P/118/46, 5 Aug. 1809, no. 91. Emphasis added.

<sup>93</sup>Ibid.

<sup>94</sup>Translated letter from Munni Begum to Pattle, recd. 17 Aug. 1809, in Pattle to Swinton, 25 Aug. 1809, BPC, P/118/48, 3 Oct. 1809, nos. 44-46. In her letter, Munni Begum explicitly denied Soortellee's, and the other concubines', claims either to the stipend or to the material goods of Rustum Jung, by the Shia doctrine.

attempt of the Company to arrange for a partition of the estate. This claim of 'dower settlement', referred to their Law Officers again, elicited the opinion that the claim for payment of the widow's dower superseded all rights of inheritance and like other debts on the estate it must be satisfied before any division of the property can be made amongst other heirs. Their hands forced thus, the Government reluctantly sanctioned a measly Rupees 200 out of the *damadi* stipend, for the maintenance of the concubines and their children. It would however bend no further: in 1810, when Munni Begum clearly tried to channel the resumed Rupees 1000 of the stipend in the names of the 'domestic dependants of the family of late Nawab Rustum Jung', the Government decreed that Sharokh Begum had been given possession of 'ample resources to provide for the maintenance of her late husband's dependants'.<sup>95</sup>

An identical trajectory was witnessed in the case of another *damad*. In June 1809, the *damad* Nuzr Ali Khan Shahamut Jung, the husband of Ruheemunessa, died, leaving four sons, five daughters, and six 'wives' apart from Ruheemunissa.<sup>96</sup> In the conviction that the partibility of the wealth left by the deceased could be proceeded upon on the basis of the kind of 'compact' each child had been born from, the Superintendent asked both the sons and Ruheemun to submit a list of the claimants. One list submitted by the adult sons of Shahamut Jung counted seven women under the category of widows by *nekah*, and ten women as *khadimah*. The Superintendent of Nizamut Affairs, doubtful that the former could 'produce any proofs ... to sustain their assertion of marriage contracts having passed between their deceased father and mothers', compared this with the second list submitted by Ruheemun, who claimed to be the legal heir, and found that all the women of the first list were characterised as *keniz* (slave).<sup>97</sup> Three of these 'illegitimate' sons, Syyud Ali, Bubber Ali and Jaffer Ali, all of whom were older than the five-year-old Bakir Ali, born of Ruheemunissa, came to the attention of the British authorities because the Nazim Nasirul Mulk complained that these sons 'by concubines' had obstructed the agents of his 'sister'

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She thus found a ground for claiming the whole which had to be acceded to by both Sunni and Shia schools - the dower claim. In the *mihrnama* she submitted on behalf of Sharokh Begum, no mention was made of Sharokh's birth-mother, Mohumdee, herself a daughter of a concubine of Miran's, a fact that would have acceded the right of Miran's male heirs to Sharokh's share. She submitted a *futwa* under the seals of Muhammad Rubbee and Ghulam Survur upholding the payment of *mihri-maujjul* (dower payable on demand).

<sup>95</sup>AGG Rocke to G. Swinton, 26 March 1810, and 6 April 1810, BPC, P/119/2, 10 April 1810, nos. 46-49. Rocke's list of 'eight females and two slaves' is a perfect example of the androcentric assumptions that went into defining slavery, discussed in Introduction of this thesis.

<sup>96</sup>Pattle to Monckton, 1 July 1809, BPC, P/118/43, 8 July 1809, nos. 57-58 and enclosures.

<sup>97</sup>The correspondence is summed up in BC F/4/312/7131.

Ruheemunissa, when they had tried to hold the *punyah* in her name.<sup>98</sup> Many of the lands acquired by Shahamut Jung were registered in the names of these sons, and after his death had been taken 'possession' of by the former.<sup>99</sup> As Pattle summed it up to the Collector, the Government, called upon to 'make provisions from the Funds of the Nizamut for the support of' these women and children, possessed 'too great an Interest in the application of the property of the deceased to its just purposes to abstain from the exercise of interference on that point'.<sup>100</sup> On this ground, attachment of all the landed property in dispute was ordered. The government of Bengal too wrote to the Court hoping that the stipend it had been forced to disburse to this *damad* could be henceforth resumed from a 'family which possessed so large a property... even altho' the stipend of Shehamut Jung... had been declared hereditary' in 1796.<sup>101</sup>

By 23 October 1809, (approximately two months after Munni Begum had shown the success with which such claims might be made), Ruheemun put in a claim upon the entire wealth of the deceased Shahamut Jung on the ground that her claim to 'the liquidation of her marriage settlement' had priority over all other claims. This marriage settlement, (referred to as a *mihrnama* in her letter to Pattle) was for the sum of seven lakhs, and by implication included the stipend claimed by the *damad*. All these claims were in turn submitted by the Government in Bengal to the Law Officers of the Sadr Diwani Adalut. Forced to accept a principle of 'Islamic law' that claims of *mahr* had to be satisfied before any division or partition of an estate could occur, a principle laid down in the earlier case of Rustum Jung's property, the Government of Bengal then transferred Ruheemunissa's stipend of Rs. 250 per month to the maintenance of the nine 'illegitimate' sons and daughters and sixteen concubines and female slaves, and the complete resumption of Rs. 1000 into the Deposit Fund. When the Nazim, like Munni Begum, tried to ensure the payment of this resumed stipend in the name of his minor 'nephew' Bakir Ali, the Government refused to comply: the large property which had been adjudged to Ruheemunissa Begum in payment of her dower left no good reason for making any further provision for her and her children out of the resumed stipend.

Yet the ability to cite principles of Islamic law depended, as hinted by the cases of

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<sup>98</sup>Pattle to Monckton, 11 July 1809, BPC, P/118/46, 5 Aug. 1809, no. 79.

<sup>99</sup>Pattle, Superintendent of Nizamut Affairs to Persian Sec. Swinton, 19 Aug. 1809, BPC, P/118/48, 10 Oct. 1809, no. 54. According to the amins, the taluqs, which included sub-leases and *lakhiraj* land, were rated at Rs. 42,933-12-15-1, and paid revenue amounting to a sum of Rs. 25,000. By a different computation, the mass of wealth, including houses, jewellery, clothes, and revenues from land in the holding of Shahamut Jung amounted to four or five lakhs.

<sup>100</sup>Pattle to D. Campbell, 14 Aug. 1809, *ibid.*, no. 55.

<sup>101</sup>Poll. letter to Court of Directors, 18 Oct. 1809, BC F/4/312/7131.

Ruheemun and Sharokh, on particular sets of circumstances on the ground. Just as Munny Begum's ability to manipulate events and factions, including the Agents, had led to successful claims for dower, after almost a year after the death of the *damad* and timed perfectly to halt the partition of the wealth among all the children and concubines and slaves, Ruheemun's ability to claim this ground depended on the strength of her 'brother' and mother within the power-groups of the Nizamut. Therefore, if a particular daughter belonged to a faction at that moment out of favour either with the Nazim, or with the Agent, her ability to claim anything at all was seriously jeopardised, Islamic law notwithstanding. Noorunissa, another of the daughters of a Nazim, found this out for herself when one deori head, Ameerunissa Begum, took up cudgels on her behalf against the husband with whom she had 'long been on a footing of bitter enmity'.<sup>102</sup> However, the fact that this *damad*, Meer Mohsin Salabut Jung, was favoured both by the Agents and by the Nazim Humayunjah, both keen to curb Ameerun's power, meant that Noorun's chances of gaining anything at all were slim from the outset. In 1837, in an effort to repay her debts and incensed by the fact that all the wealth accumulated by Salabut Jung as a *damad* was being gifted away (to those 'prostitutes ... by whom many children are born to him to whose maintenance he applies that stipend which my parents provided for my support'), Noorunissa's Diwan, Munshi Nadir Ali, filed a claim for Rs. 60,000. The Agent, the husband and the Nazim combined forces to crush the suit as 'contrary to the usages of the Nizamut'.

Amidst a flurry of charges and counter-charges made by both sides was one which had significant political and economic implications - 'adultery' with another man (in sixty-year old Noorun's case, with her Diwan). In a context in which many slave-concubines and slave-born daughters, especially after the death of their masters, were described as 'widows', the alacrity with which specific masters, mistresses and British officials combined to accuse such women of sexual misconduct overlay other moral, political and economic agendas only dimly apprehended. Thus Hussainee Begum, the concubine's daughter who had been married off under the aegis of Bahoo Begum in 1829 and was 'widowed' in 1833, was accused of 'exposing herself in a cheep on the river'. Another concubine's daughter, Shahzadee Begum, was accused of 'conduct... the most barefaced... a public scandal to the whole family'.<sup>103</sup> In both of these instances, such charges were preliminaries to the re-establishing of control over their bodies and any possible stipends attached to them, by various mistresses and masters. Even women like Ruheemunissa, who had undergone a long and harrowing time in the courts, were not above accusing the 'hurm of her late brother Nuwab Abul Hossein,' of having formed an 'improper acquaintance' with a servant

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<sup>102</sup>AGG Melville to Stirling, 14 April 1827, BC F/4/1328/52500.

<sup>103</sup>AGG Cobbe to Sec.to GOB, Macnaghten, 14 Oct. 1835, BPC, P/127/29, 27 Oct. 1835, no. 27.

Khadem Hussun oorf Meer Hussun Ali, and having the woman's pension resumed.<sup>104</sup>

The Agents were happy to go along with such punitive measures, and to reinforce them wherever they could, in the interests of the 'observance of common decorum'. Using these charges against specific women to diminish their stipends was, as can be expected, conducive to a fiscally straitened Nizamut; and any diminution of stipends was welcome to the British Collectors and the Agents. Thus another woman, who had identified herself as 'mother of Cauzim Ali' was denied both claims on her deceased 'son's' house and a continued pension because she 'had formed an illicit and disgraceful connection with a servant of her own named Roostum with whom she continued to cohabit in a separate house until the death of her paramour'.<sup>105</sup>

But such charges carried a very heavy symbolic and political load. In the received and lay understanding of many, charges of sexual misconduct were serious because the purity of the lineage was threatened by the sully of the womb. This concern for the purity of the child's descent would have been important if this was indeed proven to be of any great significance in practice. In the light of what we have tried to argue, lineage-making could occur with different kinds of heirs - first generation slaves, second-generation slaves and slave-born children, and so on. The purity of blood or descent was not of primary or overt significance. Furthermore, the purity of blood and descent were important only in contexts of claims over the child: where there were few contending claimants to a child, in the sense that both maternal and paternal natal kin, and extended kin, did not exist, or as slaves in the Nizamut, could not exercise roles of paternal and maternal authority, the question of ascertaining the purity of the womb as a way of establishing claims over its product seem implausible as motives for the policing undertaken by the members of the Nizamut against their own kind.

The real symbolic charge in such an accusation was that of faithlessness. Occurring as they did precisely after the death of a deceased 'husband/master', they obscured the fact that post-mortem manumission to a slave-concubine, especially if she had borne a child, was both morally enjoined as well as practised in fact. However, this particular gift of 'freedom' could be confirmed only by the dead man's heirs. In the increasing fiscal embarrassment in the Nizamut, what appeared to have happened was a negotiation by heirs of deceased males, to indemnify themselves for this 'gift'. But even more significant, since slave-concubines were accepted as near 'extensions' of the master/husband's persona, the 'freeing' of the slave at the death of the master meant that he was resurrected in the living person of his favourite. This was both a source of anxiety to the

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<sup>104</sup>AGG Caulfield to H. T. Prinsep, 24 Aug. 1838, *MNLI*, II, p.234.

<sup>105</sup>AGG F. V. Raper to Secy. to GOB, F. J. Halliday, 1 Nov. 1844, BPubC, P/13/52, 8 Jan. 1845, no. 51. A similar pecuniary punishment was meted out to Besmillah Begum a 'huram' of the deceased Syud Wahed Ali in 1852, vide Gen. (Poll.) Letter from GOB to Court of Directors, 24 June 1852 in BC F/4/2476/138839.

surviving heirs of a dead man, as well as cause for the renewed obligation of the slave-wife or concubine to be as 'inviolable' as the master had been in his lifetime. Thus charges of 'exposure' of the person of the concubine and wife, after they had become mothers of the lineage, and after they had been 'widowed', was to charge these women with a grave lapse of obligation to the master, to his lineage, and to his heirs. Especially if she had been a concubine of a Nazim, this was the equivalent of political disloyalty, a declaration of resistance that called forth swift retribution. Moreover, the involvement of other slaves and servants in such resistance appeared to have made this charge a formidable weapon in the disciplinary regimes of very ordinary households also.

As if pecuniary reprisals were not adequate for curing this so-called 'notorious profligacy and disregard of appearances ... among the female branches of the Nizamut', other methods were devised by English officials as prophylaxis.<sup>106</sup> Convinced that the 'natural and most suitable guardian of a woman's honour' was a husband, Melville in 1836 initiated a policy of getting all such widows 're-married'. In a repetition of earlier efforts by Loch to get the 'illegitimate' daughters 'married', this Agent set about arranging matrimonial alliances for 'widows'. The Agent had discovered

a custom of this family ... that the widows never remarry ... finding this usage does not obtain in society generally and that it derives no sort of sanction from the Mahomedan Law, I ... quietly consult[ed] His Highness on the propriety of reverting to the Law, instead of abiding by the practice.<sup>107</sup>

Playing political football with Islamic law was dangerous for the lives and limbs of the women subject to such measures. Few Agents had stopped to think of what these 'marriages' might have implied for the women who were to be subjected to them repeatedly. Just when the opportunity appeared, for a rest or release from the cycles of reproductive and productive labours, they were to be re-entered on the conveyor belt which tied their wombs to the demands of the market and the household economy. Re-establishing the authority of 'husbands' and 'sons' according to some grand patriarchal design of domesticity was conducive to the ethos of slave-control that the Company built up and maintained. There were enough indications that those who inherited control over these concubines did hire such women out in turn to different men, depending on the direness of the straits they were in. This was as true for women who were metaphorically 'mothers' of an heir [but in reality the slave-women or *kaneezan* of deceased males] as it was of 'widows' and

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<sup>106</sup>AGG Melville to Macnaghten, 20 June 1836, BPC, P/127/32, 28 June 1836, no. 2.

<sup>107</sup>Ibid.

'daughters'.<sup>108</sup> Such women in turn became vulnerable to measures of punitive moral taxation from the 1850s and 60s, as prostitutes. Since some of these slave-concubines may indeed have been working out their ransom payments, under the supervision and management of older ex-slaves and erstwhile masters and mistresses, the effort to tax this group of 'businesses' in the 1860s was another instance of how colonial policies colluded in reinforcing, and in appropriating for financial ends, older modes of slave-management.<sup>109</sup>

### **Not by Islamic law: the Non-Implementation of Wala**

As is obvious from the shift away from even the most perfunctory lip-service to Islamic law, the 1830s signalled the consolidation of a specific phase in the Company's relationship with both Law and the Nizamut. In this phase, which culminated in the indenture of 1880, the 'Islamic' law that the Company's jurists had constructed was ignored by its own Agents. These disputes were about issues larger than that of landed wealth alone, including the inheritance of authority over, and title to, the slave-born children and slave-concubines themselves.

If issues of inheritance in the Nizamut were to be resolved according to Islamic law, it implied that the Nazim was subject to maulvis and muftis in the employ of the Company. Yet both Regulation XVI of 1793, XIX of 1825 and local agents of the Governor-General insisted that the Nazim and his household were sovereign heads, not private persons. Then how had submissions of issues of inheritance for the determination by the Sadr Diwani Adalut occurred in the first place? Apparently both Regulation and Islamic law could be manoeuvred for different ends in each phase. Thus having established a fiscal stranglehold over the material resources of the Nizamut by the 1830s (especially after the Thoresby compromise of 1834), the need to resort to 'Islamic law' for the same purpose abated. This meant that unlike private persons who had personal wealth subject to inheritance laws, the Nazims did not have anything other than 'public property' and government was not called upon 'to admit of Mahummadan Law being introduced into a Political Establishment over the affairs of which it has hitherto never been allowed to exercise any influence'.<sup>110</sup>

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<sup>108</sup>For an instance of the former, see AGG to Sec. to GOB, 28 Nov. 1835, BPC, P/127/29, 8 Dec. 1835, no. 18. In this the son of Meer Mehndy, a youth called Mobarak Ali, was punished by the Nazim for having taken the 'hurm of his father' with him on a boat, and having her visited by a servant of the Nazim's, the Darogah of the Shuterkhanah. For an instance of the latter, see Commr. of Dacca to Ch. Sec. Swinton, 14 Jan. 1832, BC F/4/1432/56565. According to this, some men of Dacca had complained against a woman called Kuneez Fatimah, who had been 'widowed', had been taken as a 'mistress of a Hindoo merchant of property' and was subsequently said to have been 'little better than a common prostitute'.

<sup>109</sup>See Chapter IV.

<sup>110</sup>AGG Caulfield to Prinsep, Sec. Poll., 18 Dec. 1838, BPC, P/127/40, 2 Jan. 1839, no. 4.

An illustration of the Company's manipulation of both Islamic law and the custom of the household is the suppression of a doctrine implicit to all slave-holding households in Bengal between the late eighteenth and nineteenth century. Premised upon the *peculia* granted to slaves, enjoining upon slaves the further task of adding to the income and wealth of the whole household, the incompatibility of Company's revenue-extraction measures with the maintenance of this specific feature of 'Islamic law' was obvious from the very start.

The fluctuations that we have noticed above in the way contests over inheritance were framed and handled by the Company revolved around discrete but inter-twined issues: that of inheritance from slaves, and the other was the claims of slave-born children within the households of which they were a part, in contest with other members. These two issues in turn were premised on the customary practices of many households in Bengal with regard to the maintenance and provisions of slaves. Especially important was the intimate connection of slaves with the different kinds of tenure-holding, and the monetary allowances stipulated for each. From the accounts of the Parganahs of Baharbund and Beterbund (part of the Nattore Raj before the reorganisation of 1793), the Committee of Circuit in 1772 reported that alongwith the varying sums allotted from the collections to *paiks*, *lattials*, *muhurrirs*, sums of Rs. 193-17 were given to the *bhandaris* (male slaves, described as 'servants attending the Zemindar's house at Burnagore'). Another sum of Rs. 65-18 was marked out for the *bhandaris* who attended the purohits ('Bramins') and Rs. 15-1 was given to the *dasis* of Rani Bhavani.<sup>111</sup> In 1794, a Rajbari establishment for the zamindar of Dinajpur, containing 150 *bhandaris* on a 'monthly salary' of Rs. 563-8-0, and 18 *dasis* ('for beating wheat') at a monthly salary of Rs. 36 was fixed by the Collector and the Council at Calcutta.<sup>112</sup>

One of the key strategies that slave-holding societies in the Mediterranean had developed to encompass the simultaneous and dual aspect of wealth was what in Roman legal terms has been called the *peculium*. According to Finley, it encompassed property in whatever form (including slaves, buildings or goods) 'assigned for use, management, and within limits, disposal to someone who in law lacked the right of property'. In strict Roman law, it was a purely voluntary grant by the master, which involved her/him in legal responsibility to third parties up to the amount of the *peculium*, and which s/he was free to withdraw at any time. In practice, the holder may have had a free hand in the management of it and could also ransom him/herself from the profits and

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<sup>111</sup>Report of the Committee of Circuit, Rungpore, 16 Dec. 1772, P/68/54, unnumbered.

<sup>112</sup>Collr. Dinajpur to President, BOR, 11 July 1794, BOR Misc. (Wards), P/89/60, 25 July 1794, no.2; also Sirajul Islam, *The Permanent Settlement in Bengal: A Study of Its Operation 1790-1819* (Dacca, 1979), pp. 206-7, table 12, for 1152 bighas of *chakeran* lands, held by the (male) slaves of the Dinajpur Raj.



continue to use it after manumission.<sup>113</sup> Thus the critical role of the peculium was its use as a device to motivate slaves to work at skilled and demanding occupations, while preserving both the honour and the profits of the master.<sup>114</sup>

As Watson urged in his critique of Tushnet, English law, and English-derived law had no equivalent for the recognition of the peculium as one of the legal possibilities of a slave-society.<sup>115</sup> The sums of money, slaves, plots of land or buildings that were 'benami'- belonging to the master or mistress but written against a slave's name - were the Indian equivalent of the peculium. Such 'benami' *pattahs* were held in the case of the Nizamut, and of other households, of both revenue-paying lands (*khiraj*) and of *lakhiraj* tenures. But this could cause great difficulties when such slaves in turn tried to claim the property as 'their own' or 'self-acquired' property, which like the slave-born sons of Shahamut Jung, many did attempt. Furthermore, when such a slave died, the disputes over the slave's or freedman's peculia were acrimonious, involving the prior questions not of slavery or freedom, but **whose** slave she or he had been. This was a peculiar dilemma, especially since slaves were transferred between masters and mistresses for various reasons and in different economic forms. For instance in a contest between two blood-brothers in Chittagong in 1796 over the division of hereditary property, exclusive of self-acquired lands, the younger brother claimed that certain villages (Cherowtee and Gyah) acquired by his grandfather as a gift had in turn been entered as Turruf Nychund after Nychund 'an industrious and attentive slave' to whom the management of these villages had been made over.<sup>116</sup> These villages, along with the self-purchased slaves of the grandfather, had in turn been gifted to one of the uncles of the plaintiff, and therefore had not been subject to further division among heirs. The elder brother's rejoinder was :

There was a slave of my Grandfather by name Punchaun who having acted as Khedmutgaur to the Lala and acquired some money by his industry purchased at his own expense villages Chorawtee Gyah &ca. which he caused to be entered at the Sudder as a Turruff and after paying his Revenue whatever profits remained, he appropriated to his own use. He with his own money bought Four slaves Nychand Chandah &ca. for his own service - lala Nundram [the uncle] never

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<sup>113</sup>Finley, *The Ancient Economy*, p. 64.

<sup>114</sup>For a comprehensive discussion of the *peculium* arrangement, see Aaron Kirschenbaum, *Sons, Slaves and Freedmen in Roman Commerce* (Jerusalem, 1987), pp. 31-87.

<sup>115</sup>Alan Watson, Review Essay 'On *The American law of Slavery 1810-1860*', *Yale Law Journal*, 91, 5, 1982, pp. 1034-47, and *Slave Law in the Americas* (New York, 1989), p. 72; Tushnet's reply, 'Critical Method in Legal History', *Cardozo Law Review*, 9, 1985, pp. 997-1011.

<sup>116</sup>Progs. of the Diwani Adalut of Zillah Chittagong before J. E. Colebrooke, in case of **Ramdulloll vs. Ramkishore** of 28 June 1783, in Proceedings of the Sadr Diwani Adalut, P/153/11, 27 April 1796, nos. 13-14.

purchased and gave any slaves to Punched.<sup>117</sup>

The elder brother emphasised the fact that even if their common uncle had purchased these villages himself, he would have entered them in his son's name and 'only given to the slave the management of them that he may as **nankar** obtain something for his support'. More important than the disagreement about the nature of a slave's holding of specific villages and slaves (self-purchased /gifted by owner for maintenance) was the agreement between contestants that whatever a slave acquired also eventually belonged to his master's heirs. Therefore the elder brother claimed that 'altho Punched and his slaves were supported from the Turruf bearing his name... we delivered over to... [the uncle] the Turruf Punched with Kherma being five villages, the slave Punched with the five slaves whom he had purchased.'

The particularly contentious feature of the peculium was whether it could be transmitted to the heirs of a freedman, or whether the manumittor claimed the right of succession to this. The issue depends upon how the peculia is conceptualised. Finley who thinks that it was inheritable by heirs, also conceives the peculium as a 'form of property'. The arguments of Crone and others point to the fact that the peculium was **in lieu** of ownership, i.e. it was equally applicable to all those persons in potestate of the Roman paterfamilias, without distinction between the slave and the filiusfamilias, nor with any reference to any public office that either might enjoy. The substantial difference between the two arose when with the death of the pater, the son acquired his own potestas, but the slave did not.<sup>118</sup> Patterson too has defined the peculium as the 'investment by the master of a partial and temporary capacity in his slave to possess and enjoy a given range of goods', thus shifting the focus from the relationship between slave and thing to the investing of the slave with specific attributes and capacities.<sup>119</sup> Patterson thus insists that the peculium never included all the proprietary capacities, of which use, improvement, enlargement, were the most frequently bestowed, but never the capacity to dispose by sale, bequest, gift and so on. In some instances, the capacity of disposal may even have been granted, with regard to the less important movables within the ambit of the peculium, but rarely did this apply to the substantial movables (like other slaves/slave-born children) or immoveables (like houses, villages).

The inability to conceive of proprietary and usufructuary capacities rather than objects characterised the confused responses of many colonial officials from the 1790s onwards through the 1830s to queries about slave-property. Cheap, who had served as assistant to the magistrate of Murshidabad, F. Magniac, his brother-in-law, and in the 1830s was Judge at Mymensingh, made

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<sup>117</sup>Ibid., 30 Sept., Deposition no. 5. Emphasis added.

<sup>118</sup>P. Crone, *Roman, Provincial and Islamic Law: The Origin of the Islamic Patronate* (Cambridge, 1987), p. 77.

<sup>119</sup>Patterson, *Slavery and Social Death*, pp.182-83.

three apparently contradictory statements about slave-property in the same breath. (1) Slaves purchased their freedom from their earnings, 'thus establishing that the property possessed or realized by a slave in servitude is his own'. (2) The property of a slave reverts to the master upon the death of the latter, but slaves seldom have anything to leave of their own, 'their clothes and every thing they have on, or what they have for use, belong to their masters, who provide them with everything'. In this context he gave the eunuchs of the Nawab Nazim of Murshidabad as his example, to whom their many landed estates had reverted upon the death of the former. (3) Slaves succeed by will to the property of their masters.<sup>120</sup> Cheap's comments, in fact, endorse the existence of the peculium as the existence of specific capacities, stopping well short of the capacity to alienate permanently, logically enough, as far the master was concerned, because the capacity to bestow/ bequeath/ was specifically his/her own. It also permits the formulation of the peculium as the grant of specific capacities in relation to a material thing, rather than the thing itself. The denial of all the capacities was maintained by the fact that the peculium lapsed with the death of the slave. This is also what the Nazims seem to imply by their actions when a slave died.

The special incapacity of slaves, thus to dispose of their persons, and certain kinds of material goods, both in Roman law as well as in Islamic law, continued even after manumission. The device through which this incapacity was articulated in the former was the *paramone*, and in the latter it was the institution of *wala*. Strictly speaking, the *paramone* is the provision of support by a slave to the master/ mistress and acting as a condition for the former's manumission, a form of retaining the services and income from the slave but not responsibility for his/ her delicts.<sup>121</sup> This kind of *paramonar* manumission seemed to have been widely prevalent and may be compared to the *kitabut* and *tudbeer* forms of manumission in Islamic law, and the whole to the endowment of the relationship of *wala* between manumittor and slave.

The main legal incidents of *wala* were (a) title to the freedman's estate, on which there was no disagreement between either Sunni or Shia law. The differences arose between the two schools in the ways they represent this title: in Sunni *fiqh*, the master inherited as the last agnate of the freedman, taking the residue after Quranic heirs, be excluded by a genuine agnate and himself exclude remoter relatives, like a sister's son. The Shias, however, held that the manumittors' title rested on *sabab* (tie, connection) rather than *nasb* (blood-relationship) and excluded the manumittor from succession in competition with any blood relation of the freedman,

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<sup>120</sup>Appendix II, Report from Indian Law Commissioners, (*PP*), 1841, no.47, p.293.

<sup>121</sup>For an instance of this kind of manumission, see Charu Chandra Ray, 'Slaves and Slavery in old Chandernagore', *BPP*, 6, 1910, pp. 257-265. In one deed, Antoine Manhon, 6/7 year-old slave, 'native of Balasore', was freed on the promise that he would pay his owners/masters Rs. 6 per year for the period of six years, as repayment for the sum expended on him. The repayment was facilitated by his being 'bound over' to the merchants of the Royal Company of France.

regardless of proximity of relationship. Other obligations tied up with being a *wali* (guardian) included (b) the obligation of paying blood-money on behalf of the freedman, and (c) the claims of manumittors to act as marriage guardians to the freedwoman or the freedman's daughter. The manumittor's rights and duties extended to the freedman's descendants, as well as to his freedmen and their freedmen in perpetuity. And on his own death they passed to his descendants in perpetuity. This relationship could not be the subject of sale, gift or other kinds of alienation. Thus at these points the *wala* relationship came closest to resembling a kinship-tie.

The difference was that the rights and duties vested in kinship ties were usually reciprocal whereas in the *wala*, it was unilateral. The manumittor acquired rights and duties vis-a-vis the freedman but the freedman did not acquire the same claims upon the manumittor. In other words, *wala* as an institution continued the relationship of dependence between slave, freedman or woman and master or mistress, through the maintenance of specific incapacities on the part of the 'lower *mawla*' (the ex-slave) and the retention of specific capacities in the 'higher *mawla*' (the manumittor).

#### **Wala and the Scholar-Officials of the Company**

Though specifically associated with the manumission of slaves, and granted to the manumittor as a compensation for his/her 'gift' of various capacities, *wala*, expressing the master's ultimate control over the slave's earnings, was retained by the different schools of Sunni and Shia *fiqh*. Given this unanimity, it would be in order to determine the extent to which this was both practised, and recognised in colonial Bengal, especially in the wake of the commitment made in 1773 by the East India Company to maintain the laws of 'inheritance, succession, marriage' according to Islamic and Hindu practice. For this reason alone, the silences and suppressions of the Company-found law are important. In the translations of the *Sirajiyah* and of the *Hidaya*, the discussions of *wala* had been relatively extensive but these discussions became fainter in the work of the official jurists of the Company in the first half of the nineteenth century. As a term, it is absent both from the glossaries appended to, and the body of the texts and commentaries they wrote. The best example of this is William Hay Macnaghten's *Principles and Precedents of Muhammadan Law*, a text published in 1825 and very widely used by the English judges of the law courts of the Company.

A close look at some of the precedents cited by Macnaghten seem to suggest that, in practice, *wala* was claimed, even though the term is absent, and the reply of the Islamic law officers to the cases seem to suggest that they recognised the claims for what they were. In the reply of the Qazi in one such dispute, was a quotation from the *Sirajiyah* which stated in full the degrees of proximity by which inheritance is meant to be distributed, including the right of 'the

master of an enfranchised slave'.<sup>122</sup> In the section of Principles of Inheritance in the same book, in the discussion of the distant 'kindred' it is stated that if 'the estate to be inherited belonged to an enfranchised slave, his manumittor and the heirs of such manumittor inherit, in preference to the distant kindred of the deceased'.<sup>123</sup> This is the closest Macnaghten got to the institution without its name.

The absence of the term *wala* from this influential text has to be explained before we can proceed to see its consequences for the Nizamut and such slave-holding households. One of the possible reasons for this may have been semantic, for as eighteenth-century lexicographers noted, 'There is no single word in our language fully expressive of this term. The shortest definition of it is, the *relationship between the master (or patron) and his freedman*; but even this does not express the whole meaning'.<sup>124</sup> Furthermore, the silence may have been the consequence of the term's absence from pleading itself so that if a claimant did not use the term it may not have entered the early English jurist-official's field of enquiry. Certainly, Cheap, Judge of Mymensingh was categorical that claims to the property of deceased slaves never become a subject of inquiry in a criminal court, and he had no instance of this from the zillah court he presided over.<sup>125</sup> One of the reasons for the non-appearance of the term may also have been the result of procedure. In the majority of 'civil' cases submitted by the provincial courts to the appellate jurisdiction of the Sadr Diwani Adalut, the statement of the case by the lower-level judge would already have framed the issue for judgement. This is where the local official's definitions of who was or was not a slave would impinge on the submission; all too often, the reference to the Qazis and Muftis obliterated the fundamental relationships between persons, referring to them as A,B,C ad infinitum, as though each individual was jurally 'free' and socially autonomous. In the process, the wide range of incapacities that corresponded with the varieties of slave-status were erased from the British judicial and legal records. Any remaining chances of inferring capacities on the basis of relationships between persons was attenuated further when the substance of slave-status was depicted in the language of kinship.

The likelier explanation for the suppression of *wala* in the *Principles of Moohumudan law* was political. In Shia law, the failure of heirs meant that the property in question fell, to the share of the Imam. The only equivalent for this in English law was the term 'escheat'; it was a term liberally used by the early Company men in their discussion of land-tenures, and in deciding

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<sup>122</sup>Macnaghten, *Principles and Precedents*, (ed. Sloan, Calcutta, 1860), Case XXVII, pp.103-105.

<sup>123</sup> Ibid., p.8.

<sup>124</sup>Francis Gladwin, *A Dictionary of Mohammedan Law* (Calcutta, 1797), p. 52, no. 755, 'willa'.

<sup>125</sup>Appendix II, Report of the Indian Law Commissioners, (PP), 1841, p. 293.

whether the land belonged to the sovereign, in this case, the Mughal Emperor.<sup>126</sup> After 1765, having received the Diwani from the Emperor, it became even more critical to many functionaries of the Company to acquire those attributes that characterised, in their eyes, Mughal sovereignty. Claiming the rights of the Imam tallied almost too neatly with the fiscal interests of the Company after 1773, when with the passing of the Regulating Act, the control over its revenues became subject to the governance of Parliament. In the range of measures taken to ensure the stability and volume of revenues from India, a process just as important as the reification of land occurred in the case of the Nizamut - the obliteration of boundaries between 'private' property and Subahdari jagirs (state property). The broad interpretation that the Company put on the treaties of 1765-66 was that the Nazim Mir Jafar had given up all his jagirs to the Company in return for a fixed monetary stipend. There was little formal, or treaty-based, recognition of the custom by which all Mughal officials and subahdars had tried to create private holdings separate from those which were attached to their office. As one scion of the house explained it in the late nineteenth century, the officials 'were obliged to do this, as otherwise, in the event of any withdrawal of the favour of the Emperor,... they would have been left penniless'.<sup>127</sup> The only lands the Supreme Council in Calcutta informally recognised as the 'private' holdings of the Nazim were the *rumnah* (lands attached to hunting lodges, and including grazing lands). All other kinds of land were deemed to be State property: thus acquisitions of wealth in jewellery, lands, and other properties by purchase, inheritance, gift, either by the individual Nazims, or in their private capacities by members of the household, were understood by all Agents and Company officials alike to be liable to the demands of the State. This, while explaining the avidity with which the resources of the Nizamut were scrutinised, obscured a more fundamental haziness about the source of political legitimacy. Who represented the State? In the initial years after the assumption of the Diwani, the Company operated within an ideational edifice, according to which the Nazim represented one (judicial) aspect of the State and the Company another (revenue). After the turn of the century, the Company attempted to replicate the relationship of the Emperor and Subahdar in its relations with the Nazims.

These convolutions conditioned the discussion and implementation of *wala* and had significant consequences in the creation of Anglo-Islamic law. By eliminating the term from their discussion, the mid-century English jurists eliminated different types of *wala* - one flowing from

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<sup>126</sup>For a brief discussion of the Mughal emperors exercise of mastery through escheat, see J.F.Richards, 'Norms of Comportment Among Imperial Mughal officers' in idem *Power, Administration and Finance in Mughal India*, (London, 1993), p. 264 and M. Athar Ali, *The Mughal Nobility Under Aurungzeb* (Aligarh, 1966), pp. 63-66.

<sup>127</sup>Husain Ali Mirza to Collr. of Murshidabad, 25 Feb. 1885, BPC, P/2499, Aug. 1885, nos. 21-22.

the original kinless status of slaves, and another by which temporary relationships of clientage were established. Thus the importance of the *musahibs* (companions-cum-non-slave male clients) in various men's lives was ignored. In addition to ignoring these claims between non-slaves, the claims of masters and mistresses upon slaves and slave-born members were displaced. Thus the substance of *wala* and related terms and usages were relegated from the realm of the patronate to that of family inheritance, and of 'family' and 'inheritance' law, from which it never recovered.<sup>128</sup>

After all, the policy of the various committees on the allowances and stipends of the slaves, and slave-born members of the varying households of the Nizamut, had furthered the denial of slaves and slave-born upon the Company and the Nizamut. As shown in Chapter I, the Company's Agents, and Collectors, tried to deal with the complex problem by separating the cash-allowance for a slave-servant (part of the *matayyanah* of a relative), from the *mamulaat* (lit. assistance, which a relative had from the Nizamut treasury in cash) and resuming the former on the reported death of the slave-servant or concubine on the premise that this was a life provision only. But to many of the holders and masters of such slaves, the importance of transferring the sum to another slave and thus continuing the relationship of service and dependence was critical. Thus the battles over the custody of particular slaves between the members of the Nizamut were simultaneously battles over the funds and inheritance from slaves.

At the same time, the appearance of 'intra-family' disputes over 'inheritance' were actually disputes over *wala*, as in the instance of the conflict between the Nazim in 1810 and his uncles over the wealth of Babbu Begum.<sup>129</sup> It was noteworthy that the claimants in her 'property' did not include the blood-relatives of Summen Ali Khan, the putative father of Babbu Begum, heirs who were alive at the time of Babbu Begum's death. A similar case can be made for the *damad*'s estates in Murshidabad.

Secondly, and this had particular relevance to the claims of slave-women, the question whether having borne a child to her master, she also acquired the capacity to inherit from him, or bequeath the material wealth she had enjoyed and accumulated to her slaves and children, was never adequately refined in legal terms. Yet this was the cornerstone of the entire structure of land-and wealth-holding by slaves upon which personal fortunes rested, and which remained the single most important source of conflict between the Nazims, their collaterals and the Company. After all, the very creation of the Deposit Fund in 1818 had been premised upon the Governor-

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<sup>128</sup>Though Neil B.E. Baillie restored the term to discussion in his *Digest of Moohummudan Law*, by the 1860s, the discussion had become a singularly academic one, since all official decisions continued to insist that the relation of slave and master had been de-legalised by Act V, 1843.

<sup>129</sup>Welland to Brooke, 21 Feb. 1812, *MNLR*, II, p. 74.

General's claim that the stipend of the ex-slave, Munni Begum, lapsed to the Company, rather than to the heirs and descendants of her manumittor i.e. the brothers and sons of Mir Jafir. Thus the Agent had taken a very active role in intervening in the conflicts between the sons of Mubarak-ud-daula and the Nazim Alijah (1810-21) over the property and wealth supposed to have been accumulated by the deceased Begum. The important additional factor where slave-born daughters were concerned was when they had been 'given' in marriage to specific men chosen by the Begums of the deoris. The claim of dower according to doctrines of Islamic law upon the estates of such bridegrooms in turn reveals the complex interweaving of the inheritance from that of the client who had been acquired by marriage.

The modification-by-suppression, of the principles of *wala*, at the hands of the Company was even more visible in the cases of the peculia of the eunuchs, the slave-officials whose death had serious implications for the household and treasury. When the death of an eunuch or a concubine was imminent, the putting of seals of the master on the papers, rooms, goods was thus the first step in the exercise of the right of *wala* - as an ailing eunuch, Bussunt Ali Khan found in 1833. Finding the house he lodged in surrounded by guards sent by the Nazim, led by the Nazim's own eunuch, Feroze, with orders to put seals on his house and property 'so as to prevent his even having access to his Linen, food or medicines', Bussunt appealed to AGG Cobbe, who then wrote to the Superintendent of Nizamut Buildings resident in the Killah, Colonel McLeod, to personally remove the seals and guards, and to ensure the drawing up of a will by the infirm eunuch. Whether the papers were actually drawn up and transferred to the Agent we do not know, but McLeod reported that the invalid 'stated his intention to bequeath all his landed possessions to the Company, with a request that a provision therefrom of comparatively small extent, should be made for the support of his dependants...that he meant to make over the Kuddum Shurreef to the Buhoo Begum & ...his personal property to his friend (Bhahi) Bahr Ally Khan'.<sup>130</sup> This disposition surprised the Englishman because the eunuch 'did not once mention' the mistress he had served so long, the Doolhin Begum, Ameerunissa. The 'brother' the term Bhahi refers to was also another eunuch, belonging to the deori of Munni Begum.

As evident in the case from Chittagong referred to earlier, the dilemma for the Company's officers lay in the fact that there were too many claimants to the same slave's goods, precisely because in one lifetime a slave could have served various different persons. Coupled with the fact that the Company's officers treated all acquisitions and divestments of the individual members of the Nizamut as though these were in 'State' property, the claims of individual masters and mistresses to inherit from deceased slaves necessarily involved them in a tussle with the judicial administration of the Company, while many of the decisions of the Company in these instances

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<sup>130</sup>Coll. D. McLeod to AGG Cobbe, 10 June 1833, BPC, 21 June 1833, no. 70, in BC F/4/1475/57976.



were conditioned not by the dictates of Islamic law but by prevailing fiscal and political demands. Thus when the eunuch Bussunt Ali Khan died in 1833, there were three separate claimants: the Nazim Humayunjah, Nawab Ameerunissa Begum and finally, the Buhoo Begum conjointly with another eunuch Bahar Ali Khan. The evidence that emerged made it impossible for the Company to conform to formal *sharia* principles without loss to itself. Therefore it made a pragmatic secular decision calculated to benefit its finances.

The fact that a slave never retired, and was recalled to office under a succeeding mistress was the basis of the claims made by Ameerunissa Begum in 1834. After the death of Munni Begum, Bussunt Ali Khan though receiving his allowance of Rs. 350 appears to have held no office, until Ameerunissa's accession to the rank of the Ja-Nushin, or head of the Deoriat. Since Ameerunissa then re-appointed Bussunt as Nazir, a post for which he received a 'salary' of Rs. 200, Ameerunissa's claims rested both upon **her** succession to headship and to the perquisites of that status, one of which was the services of all those slaves who had served the earlier head. This was significant because even though at the end of his life, Bussunt Ali Khan suffered from palsy and was unable to actually conduct the affairs of his office, and another eunuch, Zumurood, was the real functionary, the office and title of Nazir, along with the salary, remained with Bussunt. Therefore, instead of really challenging the Nazim's claims, Ameerunissa only built upon the presumptions implicit in the former.

The fundamental challenge came actually from the very existence of the third claimants, a process that involved the complicity of the Agent and the overarching English ideas of proprietorship, wealth and modes of transmission. Thinking that the eunuchs **possessed** the wealth they managed, successive AGG tried to devise testamentary evidence from Bussunt Ali Khan himself as to the modes in which the wealth would be bequeathed upon his death. Perhaps, the eunuch recognised the possibilities that the Agents represented of dispensing with something like his 'self-acquired' wealth, and also realised that the cupidity of the Company's officials would ensure the success of even the tiniest act of defiance. The AGG, in 1833, at least believed that Bussunt Ali Khan would, by his will, leave to the Company were worth 'about 3 lacs of Rupees the provision for his followers will involve a very trifling expense'.<sup>131</sup> However, in the paper that he wrote at the behest of the AGG, Bussunt Ali left the 'whole of his property moveable and immoveable' in trust to Buhoo Begum and Bahar Ali Khan who were directed to appropriate 2/3 to the support of the Kuddum Shureef Masjid and the Imambara at Begum Gunge, and the remaining third was to be used for his own funerary expenses. The supervision of the Government in the expenditure of the funds was requested, especially if 'opposition be offered in any quarter'. The AGG apparently remonstrated on the 'difference' of the above disposition 'from that which

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<sup>131</sup>AGG Mcleod to Sec. to GOB, Macnaghten, 12 June, 1833, BPC, 21 June 1833, no.70, *ibid*.

was understood some time before was to be made'.<sup>132</sup> Even though the ailing eunuch clarified that there was no discrepancy, the sums mentioned in this clarification were substantially less than the 3 lakhs the AGG had looked forward to. In fact, the total annual income from the zamindaris were calculated by the eunuch to be between Rs. 8000-9000. As Thoresby put it, Bussunt Ali Khan had written nothing of the 'small houses and some Gardens and patches of ground' in Murshidabad, a statement of which he tried to procure from the *mutsuddis* of the deceased eunuch. (See Appendix II). As far as the English materialist ethos was concerned, the 'proprietorship' of these zamindaris, jewels, plate was enough for one Agent to insist that 'Bussunt Ulee Khan was a free servant of the Nizamut'<sup>133</sup> (in direct opposition to the Nazim's claims). This arbitrary ascription of 'freedom', in turn, was meant to establish the ability of the eunuch to dispose of his wealth, in ways that evaded the erstwhile masters.<sup>134</sup>

The fact that the eunuch had not mentioned Ameerunissa Begum who had been his employer for the last decade of his life was not as revealing as the Agents thought. Nor had he tried to bequeath anything to his own *chelas*, Mian Juwahir and Mian Qumbux, nor had he mentioned Zummurud, the slave he had personally bought from Hyderabad. Perhaps the eunuch had not mentioned either because it was taken for granted by him that **title** to various houses, lands, gardens were not his to dispose of. In fact, in the very people he named as trustees lay the indication of this knowledge: Bahar Ali Khan was yet another eunuch, albeit the eldest of the Khajasera of the Nizamut, and serving at the deori of the Buhoo Begum. Though appointed a trustee of the estate of Bussunt, he never actually exercised this power, possibly because of factional machinations which caused him to resign: by 1838, Bahar too had died.<sup>135</sup> In any case, the Government of Bengal upheld the testamentary evidence, on the grounds that Bussunt Ali Khan 'appeared to have been a Free person having a right to dispose of his own property'.<sup>136</sup> Five years later, it changed its mind: then the Government accepted that 'Bussunt Ali Khan was a purchased Eunuch slave his heir therefore, failing any near relations or dispositions by will of

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<sup>132</sup>AGG Thoresby to Sec. to GOB, Macnaghten, 13 Jan. 1834, *ibid*.

<sup>133</sup>*Ibid*.

<sup>134</sup>For identical attempts to resume lands 'gifted' by Walida Begum to her eunuch Rozeufzoon, see letters of Cobbe and McLeod to Nawab Nazim, 16 June, and 7 Sept. 1835 and 9 March 1836, *MNLI*, II, pp. 9, 14 and 23.

<sup>135</sup>Melville to Macnaghten, 1 May 1837, *MNLI*, II, pp. 84-5 and 157.

<sup>136</sup>Extract Poll. Letter to Court of Directors, 13 Nov. 1834, para 230, BC F/4/1522/60090A. One of the factors influencing the decision was the fact that 'several of the villages in default of payment of the Government dues were advertised for public sale'. See para 228, *ibid*.

the Estate, will be, according to the Mahomedan law, his late master'.<sup>137</sup> This admission however came after the intervention of the earlier Agent in taking over the charge of the estate and appointing another manager had failed to yield the expected profits and revenues.<sup>138</sup> Finally, when this manager too failed to satisfy the Agent, the issue of handing back the estate to the Nazim or to the Begums was reopened. But after 1839, there was a new and very young Nazim on the musnud (ten-year-old Faridunjah), who was deemed 'unqualified for such a charge'. So, despite the fact that the eunuch's deposition had specified Buhoo Begum, the charge of the estate was handed over to Ameerunissa Begum.

This was not an accidental choice. Capitalising on the proclivity of the current Agent, Melville, to believe unproblematically in the 'dissoluteness' of all females in the Nizamut, and continuing a tradition of politico-symbolic gestures, the Nazim Humayunjah accused Buhoo Begum of 'sexual misconduct with a Chela of the Nizamut named Shooja Koolee alias Hingoo'.<sup>139</sup> The superintendence of Buhoo Begum was effectively destroyed : after a summary investigation, involving typically depositions by the eunuch Bahar Ali Khan himself and other slaves of the Nazim, Melville authorised the removal of the 'grey headed old and nearly toothless' Buhoo Begum from the deori from which she claimed her rank. Though a subsequent Agent showed how 'impossible' this charge was, it was clear that one of the reasons for the Nazim's conflict with a woman who in kinship terms was both 'mother' and 'uncle's wife' was his desire to appropriate the 'property of one of her late husband's concubines'.<sup>140</sup>

The blanket and formal sweeping away of such issues, spelt out in Act V of 1843, was thus the culmination of a long process of attrition of the very doctrines that had been guaranteed in 1773 i.e. the preservation of *sharia* law to Muslims in the matter of succession, marriage, and inheritance. It is noteworthy that Prinsep, who vehemently opposed any legislative enactment on the abolition of slavery, as much as the majority of the Law Commission, appeared to agree on one issue regarding the Act : that masters no longer be allowed to inherit from slaves. Though the specific instances Prinsep used to illustrate his argument were those of the main eunuchs of the Awadh and Nizamat households,<sup>141</sup> the resumption of the stipends and the lands held by slaves

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<sup>137</sup>H. T. Prinsep, Sec. to GOB, to AGG, R.B.Pemberton, 13 Feb. 1839, *MNLR*, II, pp. 384-85.

<sup>138</sup>For 'Abstract Accounts of Receipts and Disbursements from 1240 B.S. to 1243 B.S.[1834-5 to 1837-8]' furnished by Bahar Ali Khan, see BPC, P/127/40, 13 Feb. 1839, no. 7.

<sup>139</sup>Nawab Nazim to Melville, 24 June 1837, BPC, P/127/35, 25 July 1837, no. 7.

<sup>140</sup>AGG Caulfield to Prinsep, 26 April 1838, and enclosures, *MNLI*, II, pp. 171-74.

<sup>141</sup>Minute of 31 July 1841, BC F/4/1947/84542. Prinsep discussed the differential in British policies: on one hand, allowing the Nawab of Awadh to claim as heir of the eunuch-slave of his grandfather, Darab Ali Khan, and on the other, refusing to resolve the claims in Murshidabad.

and ex-slaves into the coffers of the Company rather than that of any specific master or mistress was neither new nor specific to eunuchs. As the Nazims pointed out from 1836 to 1870, the Company had built up the Deposit Fund from 1818 by resuming Munni Begum's stipend, rather than allow the Nazim or successive *gaddinashins* to inherit it, even though in terms of Islamic law, they were the 'legal heirs'. The subsequent policy of 'lapsed stipends' and 'resumption' proceedings in land had only continued this suppression of wala, all to the advantage of the various municipal and political measures that this Fund financed.<sup>142</sup>

In a fairly representative *denouement* of events, in 1878 the Government of India instituted an enquiry into the availability of funds from 'Muslim' endowments to meet expenses of another Agency - for Indian pilgrims at Jeddah. One official wrote then of the Kuddum Shareef in Murshidabad that though Bussunt Ali Khan had endowed the mosque and Imambara with a third of his wealth, the 'estate was encumbered with a heavy debt, and had to conduct expensive lawsuits brought against it'.<sup>143</sup> How had matters come to such a pass in an institution cherished by slaves,<sup>144</sup> and managed under the authority of the colonial government? Establishing control over the revenues of such mosques, evident in the case of other mosques like the one founded by Munni Begum<sup>145</sup>, was to drive Act V of 1843. The culminating paradox was that the denial of masters' claims in the wealth slaves had donated, in this instance, to the cause of a higher being, only come about by a suppression of the *sharia* and *fiqh*.

As we have seen in this chapter, colonial policy on the civil consequences of enslavement and slave use was conditioned not by attention to doctrinal law, as to other contingent factors. To understand the cumulative nature of the changes brought about by colonial adjudication and legislation, we must turn to what had become by mid-century the Company's legal regulation of slavery.

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<sup>142</sup>Apart from the palace, upon which the sums spent appear incalculable even by the Government's own admission, for an example of 'public works' financed from the Deposit Fund see India F&P, P/203/31, 7 Jan. 1859, nos. 6-7.

<sup>143</sup>Offg. Sec. to BOR to Sec. to GOB, 21 Nov. 1879, BPC, P/1493, March 1880, file 19, no. 6.

<sup>144</sup>The same complex, the Kuddum Sharif, contained a mosque built in 1780 by Itwar Ali Khan, Munni Begum's chief eunuch, according to Perween Hasan, 'Art and Architecture' in Sirajul Islam, *History of Bangladesh*, III, p.664.

<sup>145</sup>For advice to establish control over the revenues while omitting the care of the slave-servants fixed to the mosque in Chouk Nowabad, see Macnaghten to AGG, 21 June 1836, BPC, P/127/32, 19 June 1836, no. 3.

## Chapter III

### *The Complicity of Law: Transactions in Slaves, Indigenous Forms and Company Regulation*

As the previous chapters have shown, the interpretation of classical and Quranic doctrine, by qazis and maulvis as well as by British scholar-officials, occurred in the context of a social history inflected with slavery. Sadly understudied in the present scholarship of indigenous law in India,<sup>1</sup> the reconstitution of 'Islamic' law specifically, and of Regulation Law generally, as a result of the intersection of slave-laws of a different historical formation in the case of India proved to be particularly critical for slaves.<sup>2</sup> Hence, this chapter traces one aspect of practice within adjudicatory regimes of the late eighteenth century, namely that of the theft or 'enticing' of slaves. It argues that (a) in local regimes, this single mode of complaining covered a multitude of functions and had different consequences for parties involved and (b) since it was a concern common to all slave-holders in the eighteenth and nineteenth centuries, the Company's readiness to reinforce the claims of masters, by special attention to this complaint, conditioned the enactment and construction of statute regarding the 'trade' in slaves. Thus the apparent delegalisation of slave-holding by Act V of 1843 was undercut by the practice of the courts that continued to adjudicate in matters concerning claims in slaves, and vitiated administrative practice into the 1870s.

An analysis of the conditions under which Englishmen in India in the late eighteenth century asserted that there were legal categories they should use, has to take into account a conjunction of three different historical conditions. These were the convolution of the East India Company with the existing Mughal forms of adjudication around slaves, the judicial developments

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<sup>1</sup>See Upendra Baxi, 'People's Law in India, The Hindu Society' in Masaji Chiba (ed.), *Asian Indigenous Law: In Interaction with Received Law* (London, 1986), pp. 216-66; Michael R. Anderson, 'Islamic Law and the Colonial Encounter in British India' in Chibli Mallat and Jane Connors (eds), *Islamic Family Law* (London, 1990), pp. 205-23; *idem* 'Work Construed : Ideological Origins of Labour Law in British India to 1918' in P.Robb (ed.), *Dalit Movements and the Meanings of Labour in India* (Delhi, 1993), pp.87-120; Radhika Singha, 'The Privilege of Taking Life: Some "Anomalies" in the Law of Homicide in the Bengal Presidency', *IESHR*, 30, 2, 1993, pp.181-214; J. Fisch, *Cheap Lives and Dear Limbs: the British Transformation of the Bengal Criminal Law 1769-1817* (Weisbaden, 1983). Despite their significant contributions, these scholars say very little about the adjudicatory norms regarding slaves and slavery in the dialectic of received and indigenous law.

<sup>2</sup>For comparative studies, see Ahmad A. Sikainga, 'Shari'a Courts and the Manumission of Female Slaves in the Sudan, 1898-1939', *IJHS*, 28, 1, 1995, pp. 1-24; Martha Mundy, 'The Family, Inheritance, and Islam: a Reexamination of the Sociology of Faraid Law' in Aziz Al-Azmeh (ed.), *Islamic Law: Social and Historical Contexts* (New York, 1988), pp.1-123 and Elsa V. Goveia, *The West Indian Slave laws of the 18th Century* (Barbados, 1970).

in 'slave-law' in the Atlantic colonial and metropolitan judiciaries, and the insertion of the East India Company into the older European and indigenous transactions in slaves. Through the seventeenth century and the early eighteenth, merchants of the Company had lived within the local *faujdar*'s or governor's orders and rulings, at the same time that a system of Mayor's courts had been functional.<sup>3</sup> In 1698, a grant from the Mughal governor of Bengal, Azim-us shan, of the zamindari of Calcutta, Sutanuti and Govindapur to the Company, had permitted a merchant-zamindar of the Company to collect revenues and preside over cases between the inhabitants of the three villages. The setting up of the Supreme Court by the Regulating Act of 1773 would not have been the first instance of the imposition of British law: the Mayor's Courts, to all intents and purposes, had administered English law in India since 1661, confirmed by the Charters of 1726 and 1753. Though the Diwani was acquired in 1765, the local *faujdar* courts continued to function, even in the Company's zamindari of Calcutta.

The years between 1766 and 1772, however, were critical for the slave-trading interests in England, for the first legal challenges being instituted on behalf of slaves to remain within England against the wishes of various owners. By the latter date, it was estimated that the number of African slaves ('blacks') in England amounted to 14-15,000<sup>4</sup>; from England, they were transported, by means of 'crimping' (a species of kidnapping), to various colonies in the West Indies, the Americas and to India. The involvement of the East India Company in India in this trading is evidenced by bills passed by the Council at Fort William to the owners of the ship Solebay for victualling fifty of the Company's military and 44 slaves, men, women and 2 boys, at one shilling per diem for the former and 15 shillings per diem for the latter.<sup>5</sup> For the use the

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<sup>3</sup>Charles Fawcett, *The First Century of British Justice in India: An Account of the Court of Judicature at Bombay established 1672 and of Other Courts of Justice in Madras, Calcutta and Bombay from 1661 to latter part of the Eighteenth Century* (Oxford, 1934); *idem* (ed.), *The English Factories in India 1670-1677* (Oxford, 1952); Tarit K. Mukherji, 'Aldermen and Attorneys - Mayor's Court Calcutta', *Indian Historical Quarterly*, (henceforth *IHQ*), 26, 1, 1950, pp. 51-66, and 'Dispute between Court Cutcherry and Mayor's Court Calcutta', *IHQ*, 27, 1, 1951, pp. 35-43; L. P. Dutt, 'Administration of Justice in Bengal in the Last Decades of the Eighteenth Century', *BPP*, 54, 1-2, 1937, pp. 18-24.

<sup>4</sup>This estimate was given by Davy, counsel for Somerset in 1772, see F.O. Shyllon, *Black Slaves in Britain* (London, 1974), p. 105. However, some contemporary estimates, like that of the *Gentleman's Magazine* in 1765, had put it down to 20,000 in London alone, see Peter Fryer, *Staying Power: The History of Black People in Britain* (London, 1984).

<sup>5</sup>BPubC., P/1/38, 21 Nov. 1765. The "Solebay" was one of two ships furnishing the Company's settlement at Fort Marlbro with slaves from Madagascar. See Third Report of the Select Committee of the HOC in L/PARL/2/6, p. 388, para. 45. For slaves belonging to Clive shipped to Bengal, see George Gray to his son, in 1761, see Mss. Eur. D.691, folio 8B.

Company made of some of the male slaves in the army,<sup>6</sup> it may be that the two groups mentioned above were not always distinct. The identity of some of these soldiers is revealed by the description of one Captain John Butler as 'born at Bristol of African Parents'. He had 'arrived in India a private in the Company's Regiment of Madras Europeans before the first siege of Tanjore... served also at the second siege in 1773 with the rank of Serjeant'; by 1816, at the age of seventy, he had command of the Resident's Court at Tanjore.<sup>7</sup> The Company did not just use slave-born or slave labour for its own military ends; it gave gifts of slaves, like the African boy it presented as *nazar* to the Nawab of Bengal in 1759.<sup>8</sup> Besides this, the extent to which slave-concubinage among officers, merchants and factors of the Company in the late eighteenth and nineteenth century contributed to the growth of a pool of subordinate labour within the Company's territories was important in highlighting Company regulation. Thus from the second half of the eighteenth century the Company's participation in the exogenous slave-trade between India and its neighbours added a significant dimension to its administrative management of slave-transfers. For instance, Holwell's account of the zamindari of Calcutta in 1752 suggests that the Company, in continuation of local practice, levied a sum of four annas on every slave bought and registered in the Cutcherry,<sup>9</sup> a practice evident on the back of slave-deeds of the French settlements as well. (See Appendix I). It was thus important for the Company to argue that slave-dealing and transfers were 'legal' in India when the legal challenges began in England.

### Islamic Law: Multiple Meanings and Singular Forms

Texts like the *Hidaya* and the *Sirajjiya*, compiled and published under the aegis of the Company after 1773, were meant to prove to legal opinion in England that slavery was enjoined by 'positive' law in India. Though the *Hidaya* was almost wholly about slave-related prescriptions, yet it was completely silent on the question of who was or was not a slave. This was to become the main question for the administrators of the Company after 1807, when they re-inscribed as 'law' selective interpretations of the answers provided by various *maulvis* and *pundits*.

Contrary to the silence of the texts, like the *Shashtra* or the *Hidaya*, local practice defined

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<sup>6</sup>One muster-roll of the European garrison of Fort St. George of 1746 lists 2 slave boys, drummers by the name of Jacob De Rozario and Michael De Rozario, as well as a 'Black sent from England' by the name of Hannibal Julian who along with others had deserted. See W. S. Seton Karr (ed.), *Selections from the Calcutta Gazettes of the years 1784-1788* (Calcutta, 1864), I, p. 161.

<sup>7</sup>W. Blackburne to Chief Secretary, Fort St. George, 8 December 1815, and 17 January, 1816, BC F/4/527/12629; also see Chapter IV of this thesis.

<sup>8</sup>Amal Kumar Chattopadhyay, *Slavery in the Bengal Presidency*, p. 27.

<sup>9</sup>J. Z. Holwell to R. Drake, 15 Dec. 1752 in *A Vindication of Mr. Holwell's Character from the Aspersions Thrown out in an Anonymous Pamphlet of 1764* (London, 1764), p. 56.

the liabilities of both enslavement and transfers of slaves. Terms of enslavement and transfers were very clearly understood within indigenous adjudicating regimes. Not only was there an emphasis on documentation of transfers, (Appendix I) but the subject of the transfer was clearly described. Thus in a decision given on the 25 February, 1774, in a complaint by Naintarra against Gocul, Tittue, Grammie and Ramkishore, for unlawfully detaining and making the complainant a slave, the maulvis of the Faujdari Adalut in Calcutta found that 'Naintarra was of good parents and never was a slave'.<sup>10</sup> The woman was declared a 'free woman' and the men including Ramkishore Braminy were punished to varying degrees. The possibility that recourse to formal adjudicatory mechanisms in the eighteenth century occurred as acts of 'registration' in turn, is suggested by the number of decisions of this court that declared title to, or the jural status of, the slave. (See Table II, Appendix I).

Those who were not slaves, whether as a result of a ransom agreement, or because of their 'good birth', had their status declared just as clearly as did those who were. Such declarations of status and title could be asked for in the name of both slave and master alike. At the same time, the terms of transactions in slaves appear to have been protected by some guarantees, both of quality and of the monetary aspect of such transactions. Thus in the instance of Anundee's complaint against Mannick, to whom the former had paid 28 Rupees for a girl, and the girl upon delivery was found to be lame, the plaintiff returned her and the defendant was ordered to repay the sum he had received.<sup>11</sup> Or in the case of non-fulfilment by the purchaser, of the terms upon which a transfer had occurred, the seller too had some guarantees. Thus when Gonga Bistno complained against Purbee for taking back a girl he had sold to the plaintiff, the Faujdari Adalut found that the defendant had sold his 'daughter' to the plaintiff for Rs. 20 ready and Rs. 3 to be paid monthly. The plaintiff had apparently failed to pay the monthly sum of Rs. 3 which made the defendant take the girl back. Gonga Bistno was ordered to pay the monthly sum and repossess the girl.<sup>12</sup>

This kind of conveyancing could not be comprehended within simple or finite categories like 'sale' 'hire' or 'pawn' since each could slide into the other and the qualities of each transaction infected others. Slaves were also mortgaged against loans by primary masters, and the inability of the debtor to repay the creditor generally led to a transfer of title in the mortgaged or pawned slave. For instance, a letter from a Brahmin of Ratnagiri to a Gadgil offered at least three

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<sup>10</sup>Proceedings of the Faujdari Adalut, 1774, P/154/39, case no. 333. The judges of this court were Qazi Abdullah, Darogha, Qazi Ghulam Imam, Ahsanulla Mufti, Nur-al-Huda Maulvi, and Mahmud Ruffadi Maulvi.

<sup>11</sup>Ibid, no. 669.

<sup>12</sup>Ibid., no. 780.



different ways in which slaves could be offered against a loan. The first was a simple mortgage without possession, with his slave girl (*batika*) Mani pledged for a sum of Rs. 100. If this was not acceptable, he offered to deliver possession of the slave-girl along with other goods worth Rs. 75 in return for the money, and the third was an offer of outright sale of the girl for the same amount.<sup>13</sup> From Bihar and Bengal such transfers, by mortgage bond, of slaves, through the mid-nineteenth century<sup>14</sup> signalled a complexity in slave-transfers which has been largely overlooked by historians.<sup>15</sup>

One of the ways in which slaves either fed themselves, or earned wealth for their holders was through agreements of 'farming' (*ijarah*) between holders and users: the holder received the wages the slave earned, or the money paid by the lessor. Such conveyancing was generally widespread in Bengal in the late eighteenth century, as well as later.<sup>16</sup> For instance, the *Seir* speaks of Banny begum, third daughter of Rabia Begum, having,

in imitation of the great folks of Hindostan, formed into a band, some of her slave girls, joined to a number of other loose women, which she had taken into her pay, she got them instructed in the arts of dancing and singing, ... commenced giving entertainments to Aaly-hibrahim-qhan ... observing that one of her girls had made an impression on the Qhan's heart, offered her to him, adding that she was a girl of her's and that she had made him a present of her person ... he sent (at least so it is reported) two or three times for the girl....<sup>17</sup>

Though this account is silent on any possible sums that may have been received by the mistress, other descriptions of such mechanisms were more forthcoming on the financial aspect of these transactions.

Describing the 'naches' in the house of Raja Ramchunda during the Durgah Puja of 1819, one correspondent pointed out that the performer named Bonnoo Jaun had recently been 'married for three months only, to a rich Mogul merchant, who paid One thousand Rupees in cash, as a

<sup>13</sup>D. K. Rajwade (ed.), *Bharat Itihas Sanshodhak Mandal* (Shaka 1835/1923 C.E.), pp. 191-92.

<sup>14</sup>See Qeyamuddin Ahmed, 'A Nineteenth Century Case of a Long-Term Lease, Not Sale, Of Human Beings', *IHR*, 15, 1-2, 1988, pp. 276-280, for a bond which stipulates that the old owners 'agree not to bring any charge of abduction (against the lease-holder)'. Also see Chattopadhyay, *Slavery in the Bengal Presidency*, p.15.

<sup>15</sup>The only discussion of slaves who were **subjects** of contracts and leases between holders has been Sebastian Joseph 'Slave labour of Malabar in the Colonial Context' in S. Bhattacharya (ed.), *Essays in Modern Indian Economic History* (Delhi, 1987), pp. 46-54.

<sup>16</sup>For descriptions of *ijaranamas* conveying slaves on long leases of 81 years, see Offg. Commr. of Circuit 10th. Divn., 24 July 1833, in *Constructions of Regulations and Acts Issued by the Court of Sudder Dewanny Adawlut from 1798 to 1847* (Calcutta, 1855), p. 295, no. 812.

<sup>17</sup>*Seir Mutaqherin*, III, pp. 85-86.

Marriage settlement, besides Two Hundred Rupees to be paid monthly'.<sup>18</sup> Such conveyances of skilled slave-girls, for short or long tenures, were noticed again in the 1820s in the western districts of the Bengal Presidency. Though the English officials, like the Armenian correspondent, described these long hires as marriage, what had caused the conflicts in court in the first place had been the non-payment of the stipulated sum by the hirer/holder to the mistress of the slave-girl. Thus in *Mussamat Chutroo vs. Mussamat Jussa*<sup>19</sup> the mistress of Chutroo, the slave-girl, had brought a suit for the recovery of Rs. 1400, the arrears of a monthly payment of Rs. 25 which the girl had apparently contracted to give her mistress but had failed to give. The provincial court of Benares had not only decreed this sum in favour of the mistress, but had further sanctioned that Jussa, the mistress, receive Rupees 1,175 on account of the same allowance for the period of October 1815-September 1819; for as long as Chutroo stayed out of the control of her mistress, the monthly sum stipulated was to be paid to the mistress. It was only in the Sudder Court that the agreement to pay was found to have been executed by Baboo Surubeet Singh, who had before the case had come to court, paid Rs. 750 to the mistress. Stripped of the confusing details, this was essentially the case of a mistress suing a man who had hired her slave and had failed to pay the monthly hire.

Though we know nothing of what Jussa in turn was meant to pay either to the state, or to anyone else, mistresses like Jussa were important to the economic and symbolic wealth of hegemonic revenue-collecting households of each region. An instance of the former were the sums raised by the zamindari of Nadia from the *Kusbeeka Chout*, a 'Salamy paid by the keepers of Brothels on the admission of every new prostitute' which amounted to Rs. 440 annually.<sup>20</sup> As with the Murshidabad household studied earlier, evidence from the trial of the Raja of Birbhum, Mahomed Zaman Khan, indicates that such slave-holding and conveyancing also overlapped with the constitution of kinship-economies. One of the main charges against the Raja had been that he had defaulted on his revenue-payments, and on the payments of his household. This charge was occasioned by the distribution of a lakh of rupees 'amongst singers and dancers and in gifts to the servants'.<sup>21</sup> However one of these skilled women, and superintendent of seven slave-girls, was

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<sup>18</sup>S. Das (ed.), *Selections*, I, pp. 356-57.

<sup>19</sup>*Report of Cases Decided in the Sudder Dewanny Adawlut*, III, pp.188-91.

<sup>20</sup>Enclosed in Collr. of Nadia, Redfearn, to C. Stuart, 8 March 1791, BOR (Misc), P/89/37, 1 April 1791, unnumbered. In its response to the Collector, the Board of Revenue was completely silent on the Kusbee ka Chout, though it considered the zemindar entitled to a deduction of his revenue payments on account of the 'Marriage tax' and the 'Permanicky'.

<sup>21</sup>Extract Proceedings of the Sadr Diwani Adalut, 6 July 1796, of J. H. Ernst, Actg. Collr. of Beerbhoom vs. Raja Mahomed Zemaun Khan in BC F/4/19/767.

also the Raja's grandmother, 'his father having kept her Daughter and had a son by her - the Nautch set of Punna Boiee is now at Naghur, but not servants of the Rajahs'.<sup>22</sup> The *taifa* (lit. group) of Punna Bai 'attended' upon the Raja periodically: either for this, or for the relationship in which Punna stood to the Raja, she received Rs. 100 a month from the treasury.<sup>23</sup> Another witness alluded to the regular hire of such groups in his statement 'Two or three sets were kept at a time, but as they came, were hired, dismissed and made room for others... were entertained at a monthly allowance....'<sup>24</sup> The payment of the hire was a matter of some importance, since the wages of Rs. 250-275 per month stipulated to another dancer, Soopeen, had to be realised against the guarantees offered by the Raja's putative brother-in-law.<sup>25</sup>

Multiple strands emerge: the connection between the acquisition of slave-girls by a mistress to the provision of skilled and unskilled services to a local hegemon; the complexity of the relationship between the mistress or superintendent of the slave-girls and the household of the local ruler, which partook of the monetary economy of the market (wages) as well as of the gift economy of kinship (stipends); the simultaneity of transactions in two directions, one going from the Raja to the mistress of the slave-girls, and another going from the mistress to the Raja. Given this multifaceted and complex form of conveyancing slaves, involving not just two parties, but multi-lateral transactions, the non-fulfilment of any one party's commitments could bring upon it a range of charges, chief amongst which were the charge of the 'theft' of the slave.

As a culpable action, it had a long pedigree. Manucci described an incident in which 'a soldier took wrongfully the slave-girl of a Hindu clerk. The latter brought a complaint before the courts. The soldier said the slave-girl was his, and so likewise said the girl herself, as she wanted to live with the soldier. The charge was transferred to the king's tribunal... he decreed that the girl should be made over to the scribe... The soldier was expelled from the service and banished the country'.<sup>26</sup> However, the significance of this story for us lies in realising that such charges of slave-stealing were inevitably levied by one slave-holder against another, even though the slave might have preferred the second to the first master.

One of the legal forms in which disputes between owners and lessors, purchasers, and hirers appeared to have been lodged as judicial complaint was that of 'theft' which removed a slave from the jurisdiction of a previous owner/master. This form of lodging a complaint was not

<sup>22</sup>Deposition of Mahomed Jaumil, 6 May 1795, in *ibid.*

<sup>23</sup>Deposition of Dillore [Dilawar] Zemaun Khan, 22 May 1795, *ibid.*

<sup>24</sup>Deposition of Muttywoollah, *ibid.*

<sup>25</sup>Deposition of Mirza Loll Beg, 14 Sept. 1795, *ibid.*

<sup>26</sup>N.Manucci, *Storia do Mogor*, I, p.195.

specific to indigenous regimes alone, but appears to have been shared by most of the eighteenth-century mercantile European powers. For instance, the Portuguese Governor of Macao in 1773 transmitted to the English Company's Council in Bengal a charge against Captain Thomas Mercer of having 'enticed away' five young male slaves of Portuguese inhabitants of Macao.<sup>27</sup> Though such a charge implied that this action had robbed the owners of their 'property', the Governor's complaint suggested that it was much more. Such action, he said, offered encouragement 'for other slaves to be faithless to their masters and run away from them on knowing and hearing of the approach of the foreign vessels'. Within India, Portuguese anxieties on this subject had a long history: in 1555 during the Viceroyalty of Don Pedro Mascarenhas, the Estado signed a treaty with a claimant to the Adilshahi throne which stipulated that once in power he would not shelter the slaves ('escravos') of the Portuguese who fled into his dominions but return them to their owners. If they had become Muslims, then they were to be sold, and the sum realised paid to their masters instead.<sup>28</sup> Such complaints - of the 'enticing' or theft of a slave - thus simultaneously embodied the contradictory pressures of establishing the claims of masters in specific slaves, and denying the agency of slaves in forsaking them.

Both the form of such complaint, and its implicit contradictions, were registered in the practices of indigenous law-givers, who then reinterpreted older doctrine and texts into composite forms, as evinced in the *Hidaya*. Under the head of theft (*saraka*), or the secret taking away of another's property, there were several actions and objects which did not merit the specific punishment (*huddood*) fixed for this offence (amputation of the arm, in this case). So stealing a free-born infant, ('because a free person is not property, and the ornaments are only appendages'), or even an adult slave was barred from this punishment. The only slave-theft that deserved this punishment was that of the infant slave.<sup>29</sup> One way around this textual delimitation of actionable slave-theft may have been the representation of all slaves as 'children', encapsulated in words like *chhokra/chhokri* and *beta/beti*. However, the records of the Calcutta Faujdari Adalut of 1774 reveal that much greater complexity was possible in practice. (See Table I, Appendix I).

Apart from the emphasis on documentation as evidence by the law-givers, a notable aspect of the seventeen cases of 'enticement' decided in the Faujdari Adalut of 1774 was the preponderance of female slaves as the objects of re-possession. It was also plain that charges of enticement were not made against 'strangers'. This was particularly important since slaves and

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<sup>27</sup>Governor of Macao to Generale and Gentlemen of the Council, 22 Nov. 1773, BPubC, P/2/5, 11 April, 1774, no. 5.

<sup>28</sup>Julio F. J. Biker, *Collecao de Tratados e Concertos de Pazas* (Lisbon, 1881-85), I, p. 134.

<sup>29</sup>*Hidaya*, II, book VIII, pp. 91-92.

servants of the same household could have been disciplined by bringing such a charge against one for enticing another. For instance, Faizunnisa Begum, of the family of the deceased Siraj-ud-daula, charged a young *sipahi* called Rahman Khan, stationed at the *zenana* of her son Muradud Daulah, of having 'seduced a 16 years unmarried daughter ... from the house'.<sup>30</sup> In 1828, Burrattee, a female slave of the household of Fakrunissa, was punished by her mistress, for having 'enticed away' two other slave girls of the household and sold them. In her petition to George IV, the mistress pleaded that it was an offence which deserved punishment both by the terms of the 'Mahomedan law; as by ... the provisions of the British legislature in such behalf'.<sup>31</sup> The critical question of whether such slave girls and 'daughters' were fleeing, though not directly addressed by such actions, is suggested again by the 1774 records. In at least two instances, the volition of the slave-girl, in taking flight, was acknowledged by the court, even though such an action was found punishable. Local ballads suggested that such women and girls fled with people (also servants and slaves) they wished to be with, and from their masters,<sup>32</sup> current or potential patrons. Another significant aspect of these decisions was the variety in the punishments ordered for what appeared to be the same action. And, finally, in at least three instances, the charges appeared to have been to elicit a judicial declaration of title between two owners, a fact recognised in the decisions of the *maulvis*. In other words, the same form covered a range of different possibilities for action by masters and holders.

When levied against trading partners, or other equal or higher-status individuals, the allegation of the theft of a slave was to allege a serious breach of trust, a breach that could cover a multitude of transactions gone awry. Thus both Jagat Seth in 1839, and the Nazim of Murshidabad in 1838, had complaints lodged against them of a similar kind. In the words of the former, he had 'entertained' a dancing girl Luckee but her 'mother ... presented a Durkhaust to

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<sup>30</sup>*CPC*, X, Jan. 24 1792, no. 71, pp. 20-21. This appears to have been the main theme of Bharatchandra's *Vidya Sundar*, satirising the loss of a female from the *zenana* of the Burdwan Raj. The suggestion of the poet that Sundar had been put up to it by other women of the household is repeated in other ballads from East Bengal, like that of Rajkanya Rupabati in Kshitish Moulik (ed.), *Prachin Purbabanga Gitika* (Calcutta, 1971), II, pp. 109-164. In the latter the Raja's *nafar* (second/third generation male slave) was asked by the principal consort of the Raja to elope with the 'daughter'. The forces of punishment sent against the *nafar* in this story, and against Sundar in the eighteenth-century poem appear to have many similarities.

<sup>31</sup>Petition of Fuckrunnissa Begum, 9 May 1828, BC F/4/981/27673.

<sup>32</sup>See the ballad of 'Monir Ojha-Manjur Ma' in Moulik (ed.), *Prachin Purbabanga Gitika*, II, pp. 387-411, also that of 'Amina Bibi o Nachhar Maloom pala', pp. 327-378. Both problematise the 'marriages' from which both women take flight. In the first, the girl, an 'orphan' is picked up by an elderly healer, reared to puberty, and 'married' by him against her wishes. In the second, the girl is offered for by a man of the village who clearly indicates to the father that she will be kept like a slave (*bandi*), since he is already married to a 'respectable woman'.

the magistrate falsely asserting that I had kept her daughter in confinement'.<sup>33</sup> In the case of the latter, the Agent reported that the 'girl' in question (then about 18 or 19 years old) had been 'sold to His Highness for 5000 Rs. and a monthly salary of 100 Rs. and that Wuzzeerooddeen and Bunnee Begum [the complainants] would gladly compromise their claims if they could get half of the above monthly allowance made over to them'.<sup>34</sup>

The Maratha records also reveal that such charges made by particular masters against third parties for the enticing of slaves could function as fiscal instruments, since the adjudicatory regimes granted specific compensation to masters by the person in whose custody the slave was found. Thus a soldier, Ali Ismail Piyada, who stole (married *nika* according to the records) the slave-girl of Mane Khan Bargir, of the government cavalry, was asked, not to return the slave but to make monetary compensation to the previous owner.<sup>35</sup> Such monetary payments, for eloping with another's slave, was not limited to soldiers alone. A nephew of a *kasar* (worker in brass), who had eloped with the slave-girl of another man also paid a fine of Rs. 66.<sup>36</sup> The inference is that though 'slave-stealing' was recognised as culpable, it merited varying punishments ranging from paying compensation to the return of the slave, sometimes even a post-factum 'free gift' by the state. Thus the slave-girl who 'was corrupted' by a *gardi* (infantryman), Tom Ingrez, so that she ran away from her master, was given as *bakshish* to the soldier, even though he had been held responsible for her flight.<sup>37</sup> In a general sense, then, the allegation of a 'theft' of slaves occurred within the wider context of masters' ambitions and the judicial recognition of such claims and titles. But the actual repossession of the runaway/ transferred slaves appears to have been left to the initiative of the proprietor, who could not automatically presume upon the complicity of the state officials in effecting such a recapture.<sup>38</sup>

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<sup>33</sup>From Juggut Seith Govind Chund, recd. 26 March 1839, enclosed in *MNLR*, II, p. 393.

<sup>34</sup>AGG Caulfeild to H.T.Prinsep, Sec. to Govt., 26 April 1838, *MNLI*, II, p. 171. In reply, Prinsep agreed that Bunnee Khanum's complaint was 'open to the suspicion of being mere attempts to extort money', in letter to Caulfeild, 2 May 1838, *MNLR*, II, p. 331.

<sup>35</sup>V. T. Gune, *The Judicial System of the Marathas* (Poona, 1953), Appendix B IV, p. 362. The soldier was fined Rs. 40, half of which went to the owner, and half to the state.

<sup>36</sup>*Ibid.*, p. 363.

<sup>37</sup>*SSRPD*, I, IX, p. 241.

<sup>38</sup>For an example of the failure to effect repossession, according to Sanskrit text-based argument, see the decree of Sachala Misra, pandit in the court of the Raja of Tirhut, on the claim of Tularama Sarman for the recovery of his *ceti* Saito in K. P. Jayaswal, 'A Judgement of a Hindu Court in Sanskrit', *Journal of the Bihar and Orissa Research Society* (henceforth *JBORS*), 6, 1920, pp. 246-258; for a recent analysis of this document, see Richard W. Lariviere, 'A Sanskrit *Jayapatra* from 18th Century Mithila' in *idem* (ed.), *Studies in Dharmashastra* (Calcutta, 1984), pp. 49-80.

The issue, as far as female slaves were concerned, was complicated by a set of interlocking contexts: the first was that given the high demand for them in almost all sectors, the escapee may sometimes have been further transferred by bonds of sale, mortgage, gift, or lease, depending upon the material resources of the household holding her or acquiring her. The second problem arose from the nature of the pressures upon a female slave of reproductive age to take a 'husband' provided by her own master/mistress, in order to expand the group of clients-followers, and reproduce their subordination. This is suggested both by Haji Mustafa's account of his slave-girl, and by the indigenous informants of the 1830's. Speaking of his 'collection of Female beauties', Haji Mustafa recounted how

a beloved girl of mine was in intrigue with one of my dependents; and the consequence of that amour soon proved of a nature which self-love could not put up with ... a young man of about thirty ... was found at last ... I prevailed upon the girl to accept him. She was repeatedly heard to say that she felt no inclination for his company, but I objected ... Witnesses were now procured, a contract was passed, and she was married.<sup>39</sup>

Three months later, when she appealed for help to her former master, she was told that he had 'divested [him]self by a public writing of every right over her person'. In 1838, slave-holders testified to the range of measures that masters could resort to in arranging the connubium of their female slaves. When they were not removed from their masters' houses, they were visited by the rotating husband, the *byakara*, who was himself a slave or freedman dependant of another master and who earned some money by the siring of progeny, which all belonged to the master of the females. In other cases, the slave girl was married to the slave of the same or another master. Ultimately, it depended upon the masters and mistresses to determine who the slave 'married' and what kind of consequences followed. Thus Raddie, the slave who had asked for some clothes and rice, was told by her mistress '... marry and your husband will give them, and you shall do the drudgery of my house'.<sup>40</sup> Many female slaves were also sexual partners of the masters' families.<sup>41</sup> Therefore, the range of tensions and ambivalences encompassing the lives of female slaves also infiltrated the workings of the adjudicatory systems, where claims against specific people for having 'enticed' a 'wife' came to subsume the jural status (slave/ex-slave) of the woman concerned.

As an illustration of the overlaps of jural and social identities, we can refer to the instance of a barber, Ramkaunta, lately promoted to Captain Kyd's domestic retinue at Farrukabad, who

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<sup>39</sup>Haji Mustafa (trans.), *Seir Mutaqherin*, I, Introduction, pp. 1-4.

<sup>40</sup>Translate Progs. of Magistrate of Ramghur at a Cutcherry held 28 August 1797, BCrJC, P/128/36, 12 Jan. 1798, no. 9.

<sup>41</sup>See Chapters II and IV.

brought a claim for the recovery of Rs. 52,980 against two women, Komaree and Konjoo, both of whom he claimed as his absconding 'wives'.<sup>42</sup> In the court of the Judge of Shahabad, he was asked 'Are they your wives by *beeah* or *nekah*?' He had answered, 'Neither, they are my concubines'. Only the petition submitted on behalf of Komaree revealed the inner ambivalences of such wifhood/concubinage. It said

at the time of the defeat of Buxar, the villages adjoining to mine were plundered - among other prisoners who were plundered and seized I with my sister fell into the hands of Kewulram, the commander of Mr. Morgan's [Mordaunt's] Battalion. I remained eight years in the Superintendence of his House and obtained a great deal of money. When he arrived at Illeahabad[sic] ... not thinking it advisable to keep me in compliance of the desire by Ramchurn Rai, General Cootes' Dewan, sent me to him ... I staid nine years in the House of the Dewan ... When the Dewan died in Calcutta as I had no connexion in his House, I went to Monghyr with my sister and slave girl....<sup>43</sup>

Eventually she landed up at Furrukabad in the trail of one of the army regiments, established a shop for the retailing of grain, hiring out bullocks and carts, selling mats and so on. Here, according to Komaree, the barber who had meanwhile become a mason in Kydserai, conveyed 'her sister and the two slave-girls, one of whom I had purchased at Furrookabad, to the Houses of the Gentlemen and obtained thereby a large sum of money of which he gave me a small portion and then deceitfully made us lose cast and got us in his power'. If the vision of a sometime 'captive' and concubine, acquiring and hiring out slaves was significant, so was the consistent pattern of transfers from house to house of Komaree herself. The importance of this pattern for the physical reproduction of slavery and of the social reproduction of 'lineage' politics was surely no small matter. In reply to Ramkaunto's claim that he had three children with her, Komaree detailed,

I was four months gone with a Daughter when the plaintiff became acquainted with me which pregnancy was the result of a connexion with Ramchurn Rai the Dewan... and the Daughter which was born at Furrookabad was by Adjutant Kenwall into whose House this very Plaintiff had seduced me and in my name deceitfully procured money, and the son of which I was delivered was the child of Sufzeeram Sircar - not even one child was by the plaintiff....<sup>44</sup>

Though there is no explicit reference to who kept the individual children born in each instance, for the present it was obvious that Komaree had no wish to be claimed as a 'wife' by Ramcaunto, who had despoiled her of all her earnings, aided by the troops of the Captain. The lessons drawn from Komaree's story was that in one lifetime, a slave could experience multiple transfers and occupy different positions of concubine, wife, trader, mother and slave-holder simultaneously.

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<sup>42</sup>Judge of Shahabad to Register, May 14, 1793, Progs. of the Sadr Diwani Adalut, P/152/41, 29 Aug. 1793, no. 30.

<sup>43</sup>Ibid., no. 32.

<sup>44</sup>Ibid., no. 32.



However, the most significant aspect for the purposes of adjudication was the fact that a slave-woman could experience a range of different economic actions like purchase, hire, lease or mortgage between different 'domestic' sites in one life cycle. Such multiple transfers (between 'native' households as well as into an English officer's) and positions could hardly be comprehended within the simple binaries of 'slave/kin' or 'domestic use/ trade' or indeed even 'domestic/agrestic' upon which English legal thought was based.

### **Protecting Domestic Slavery: Company Regulation and Foreign Traders**

For the purpose of a colonial legislature and judiciary, especially committed to re-inscribing the practices of hegemony (the 'Gentooes and Mahomedans') as though they were written into 'laws', there were three inter-related but specific issues at stake. One was the right of masters in their slaves extending to the aid of the state in effecting the recapture of fugitives. The second was the ability to garner powers of terror and coercion adequate to 'disciplining' slaves. The third was the protection in law which was offered to slaves. As we hope to show, the officials of the Company, though supposedly working alongside indigenous jurists, actually regarded the first of these as the primary object of all regulation - the guaranteeing of the proprietorial interest of an owner in a slave, and its protection against third parties. These priorities in turn were used to deflect the abolitionist impetus of Parliamentary Statute till the mid-nineteenth century. In the process, the site of the 'domestic' was inscribed into law twice over, once as the antonym of foreign (in terms of territorial jurisdiction and genealogical origin), and then, as the authority of the master of the 'family'. Thus instead of a separation between police regulation of slaves and regulation of commerce in slaves, the entire body of Company regulation operated simultaneously to reinforce the validity of both kinds of 'domestic' slavery - one within the household, and the other within the Company's territories. From the way the decrees and statutes were worded, the issue of protection to a slave became synonymous with protection by the master, and therefore protection of a master's claims in a slave. To protect the rights of the master over his slave/her slave in turn became part of the protection of the domestic market against the encroachments of other foreign powers.

As indicated by Hastings' readiness to enslave and sell 'robbers' as part of the judicial regulations of 1772-3, the earliest measures taken by the Company's functionaries presumed upon the guarantees and institutions offered within indigenous slave-holding regimens. The really distinctive feature of these measures, however, was the success with which the English Company managed to safeguard its own, and allied, slave-holdings from the depredations of its commercial rivals - the Dutch, the Danes and most particularly the French. Thus in February 1774, Khan Jehan Khan, the faujdar of Hughli, reported that 'a black Portuguese named Antony' had been convicted of carrying away some women by force. The women had been set at liberty, but the wife of

Antony had instituted a suit against the imprisonment of her husband. In response, a set of regulations were passed whose aim was to reorganise the police of the town of Calcutta.<sup>45</sup> These removed the power of recognising complaints of 'Christian slave-owners' from the *faujdar* to a Superintendent of Police, who was authorised to punish all slaves and servants that had deserted (Regulations 3-8). However, Regulation 9 also addressed the European trader, stipulating that he follow the 'ancient law of the country (which requires that no slave shall be sold without a Cawbowla or Deed attested by the Cauzee signifying the Place of the Child's abode & if in the first purchase, its parents names, names of the seller & Purchaser & minute description of the persons of both)'. Following this logic, Regulation 10 stipulated that 'no person shall be allowed to buy or sell a slave, who is not such already by former legal purchase'.

There was no subterfuge in this. From 1771, the Council of Revenue had been aware of the Portuguese proprietors of slaves who applied for the authentication of the bills of sale of slaves to the Collector's office in Calcutta.<sup>46</sup> In the Minute accompanying the Regulations of 1774, the targets were particularised. These 'judicious precautions' were to prevent the 'numbers of children ... conveyed out of the country on the Dutch, and especially the French vessels'. While the Minute did also speak of 'abolishing the right of slavery altogether', there were hedges placed around the Englishman's rights of property ('where slaves have become a just property by purchase antecedent to the proposed prohibition') and that of indigenous masters ('the most creditable of the Mussulmen and Hindoo inhabitants'). Therefore, when the Council at Dacca enquired whether indigenous masters in Dacca could keep the children born of their slaves in bondage, the Calcutta Council saw no objection in ruling that the right of masters to the children of slaves, already their property, could not legally be taken from them in the first generation.

The fact that most of the Company Regulations of the late eighteenth century were directed against the French, Dutch and Portuguese powers in India has escaped the notice of historians and led to a confused assessment of Company regulations with regard to the slave trade. For instance, Cassels has argued that because 'Muslim law had superseded Hindu law in the Company's criminal courts', it was possible for the Government of Warren Hastings to demonstrate respect for Muslim law and yet at the same time to take a stand against 'the practice of stealing children from their parents and selling them for slaves'.<sup>47</sup> Not only is this based upon

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<sup>45</sup>BOR, P/49/46, 17 May 1774, no.214.

<sup>46</sup>For an instance of a slave-holder, Antony Castano, submitting two bills of sale transferring two slave-boys to one Manoula, and for Mr. Graham's decision to make the naib Qazi who had attested the bills indemnify Anthony Castano for one slave, while allowing the latter to keep the other, see Narendranath Ganguly, 'A Peep into the Social Life of Bengal in the 18th Century', *BPP*, 69, 1950, pp. 46-50.

<sup>47</sup>Nancy Gardner Cassels, 'Social Legislation Under the Company Raj: the Abolition of Slavery Act V 1843', *South Asia*, 11, 1, 1988, pp. 59-88.

a misreading of 'Islamic law' as it was practised in the eighteenth century, and insensitivity regarding historical semantics, Cassels' portrayal of these regulations as early attempts at abolition, which were 'poorly enforced', has no basis in the historical evidence.

From 1740, the English, both on the Continent and in the colonies were at war with the French. Even during the intermittent periods of peace between the two powers, complaints against the French monopoly of trade were aired. Particularly for English officers commanding regiments of the Company's armies in India, the French ability to muster strong navies and armies on various islands in the Bay of Bengal offered a sharp contrast to the East India Company's difficulties in recruitment, large-scale desertions by, and deaths of, the native soldiery. Thomas Deane Pearse, who had served in the King's Infantry in the West Indies before joining the Company's army in Bengal attested to this in 1772. Writing to General Pattison, he said

The French settlement swarms with Europeans; and lately they have entertained a great many natives as lascars, who are all gone in the ships to Mauritius, where I dare say they will be thoroughly disciplined, and having once removed from home, they will not be likely to desert on orders to march here or there.<sup>48</sup>

The approval of this mode of creating such a navy (of natively alienated beings subject to a rigorous discipline) with the envy or disapproval of the French for their successful deployment of this strategy contextualises the Company's regulation of the slave-trade in India in this period. The recruitment of slaves for a variety of military functions had become 'universal practice' among the Portuguese, Dutch and French powers in the West Indies by the mid-seventeenth century. It was equally firmly established in the form of the British West India Regiments by the late eighteenth century.<sup>49</sup> With the outbreak of the American War of Independence from 1775, in which the French joined the colonists, the wars with Mysore between 1789-1799, and the renewed hostilities of the French Revolutionary Wars from 1792, every success of the French and allied armies and navies in adding to their labouring groups, was feared by the English Company in India. A letter to the Court of Directors, which was then communicated to the Supreme Council at Fort William of 1780, suggests the Company's acute awareness of the slave-based strength of the French and Dutch forces.<sup>50</sup> By April 1789, an editorial in the *Calcutta Gazette* referred to the extensive traffic at Kidderpore in the sale of child-slaves in these terms: '...many are annually

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<sup>48</sup>'Memoir of Colonel Thomas Deane Pearse of Bengal Artillery', *BPP*, 2, 1908, p. 316.

<sup>49</sup>See specially Roger Norman Buckley, *Slaves in Red Coats: the British West India Regiments, 1795-1815* (New Haven, 1979), and David Patrick Geggus, *Slavery, War and Revolution; The British Occupation of St. Domingue, 1793-98* (Oxford, 1982), pp. 315-55.

<sup>50</sup>Letter to the Court of Directors from Capt. Joh. Buncl, Commander of the Warren, Cartel Ship, from the Cape of Good Hope, 20 Dec. 1780, regarding the increase of the military force of the French, the joining of Dutch and Danish ships with the French fleet, which included 'soldiers and slaves'. See British Library, Hastings Papers, Add.Mss.29199, folios 509-512.

imported from these Provinces to work for the benefit of our political rivals in other regions'. The editor then welcomed the 'effectual measures [that] will be speedily taken for the remedy of so disastrous an evil'.<sup>51</sup>

The measure referred to was the Proclamation of July 1789 which forbade 'Europeans' from transferring slaves away from India, arranged for the pilots of such boats to be prosecuted, and offered rewards for information on such transactions. Cornwallis' letter to the Court of Directors in August, 1789, clarified the reference to the traffic as specifically 'carried on in this country by the low Portuguese, and even by several foreign European seafaring people and traders, in purchasing and collecting native children in a clandestine manner, and exporting them to the French islands'.<sup>52</sup> The Collector of Chittagong recognised that the Proclamation had aimed 'only at the suppression of the practice of transporting... and vending them [slaves] in a foreign country' but asked whether slaves in Chittagong should be released or whether the practice of transferring them only in the future suppressed. The clarification of the Council left nothing in doubt. The Proclamation, it said, referred specially to the exportation of slaves by sea.<sup>53</sup>

Evidently, the early Company efforts were directed towards establishing a quasi-monopoly for itself, both by prosecuting private trade and by the wresting of the trade from rival European powers, rather than the abolition of all slave-transfers or of slavery itself.<sup>54</sup> Nowhere in Regulations 9 or 10 of 1774 had there been any notion that purchase *per se* was illegal; on the contrary, all of the evidence cited above proved the high premium placed on purchase deeds. Nor, after 1789, was there a lack of enforcement: the records, in fact, show the active enforcement of

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<sup>51</sup>*Selections from the Calcutta Gazettes for 1789-97*, II, p. 213.

<sup>52</sup>Cited in G. Forrest (ed.), *Selections from the State Papers of the Governors-General of India: Lord Cornwallis* (Oxford, 1926), II, p. 140. The use of 'children' was double-edged; the records of the actual catches show that these were very young slaves, not supposedly 'free' children. For an account of Portuguese friars of Goa selling slaves to the French on the western coast, see Antonio Fransisco Moniz (compiled and ed.), *Noticias e Documentos para a Historia de Damao: Antiga Provincia do Norte* (Bastora, 1900-1917), IV, pp. 107-08.

<sup>53</sup>Collr. of Chittagong, 10 Aug. 1789, BPubC, P/3/47, 21 Aug. 1789, no. 20, and orders thereon. Emphasis added. Again in 1793, the Superintendent of Police in Calcutta referred the question of liberating, rather than restoring, slaves to the Council and was told that the 'Regulations in force relative to slavery extend only to a Prohibition against exporting Persons as Slaves, and the consequences arising from that act.' See Superintendent of Police, J. Miller, to John Shore, Governor-General in Council, 18 Nov. 1793, BPubC, P/4/24, 22 Nov. 1793, no. 3.

<sup>54</sup>For similar analysis of British efforts to control the 'Arab Slave-trade' in the nineteenth century, see Anirudha Gupta, 'Suppression of Slave-Trade and British Imperialist Strategies in the Indian Ocean 1815-1870' in U. Bissoondoyal and S. B. C. Servansingh (ed.), *Slavery in South West Indian Ocean* (Mauritius, 1989), pp.96-105. The broader issue - that of the relationship between antislavery and capitalism - is the subject of an ongoing debate: for the main arguments see Seymour Drescher, *Capitalism and Antislavery* (London, 1986); D. Eltis and J. Walvin (ed.), *The Abolition of the Atlantic Slave Trade* (Madison, 1981); Robin Blackburn, *The Overthrow of Colonial Slavery, 1776-1848* (London, 1988).

regulations against the French and Danish traders between Chandernagore, and islands of the Bay of Bengal, whether far afield like Mauritius or not so distant, like Ceylon, which were controlled by other European powers.<sup>55</sup> A cursory glance at the names and destinations of those prosecuted confirms this.<sup>56</sup> The first was Peter Horrebow, Commander of a Danish trading vessel in 1789, charged with exporting children from Chandernagore (the French settlement in Bengal) to the French islands. Another was Borel, a Swiss officer in the service of the Dutch at Colombo. Another vessel under French colours with a bill of lading in the name of Monsieur Jourdan was prosecuted in 1791, while another French merchant vessel commanded by Monsieur St. Croix, which had traded between the Andamans and the Prince of Wales Islands was reported to the French governor of Chandernagore for suitable action.

Though the English East India Company deployed a rhetoric of humanitarianism in proceeding against its rivals' slave-holdings or transfers, the underlying concerns were mercantilist. From the 1750's the Company had been supplying slaves to and from India.<sup>57</sup> The obstacle the Directors of the Company put in the way of slaves being 'conveyed' away from India by individual Europeans was that of a security bond paid by the transporting holder/ merchant which was to ensure that the slave would not become chargeable upon the coffers of the Company subsequently.<sup>58</sup> The Directors resented the fact that owners of slaves taken to England on foreign ships did not indemnify the Company. In 1782, referring to the slave-*lascars* of the Danish ships sailing from Bengal and brought to England, the Directors urged that since the 'expence... for their maintenance and Cloathing... ought not to be borne by the Company' the only alternative left was to discourage the 'sending of Black Servants to Europe'.<sup>59</sup>

A similar combination of political and commercial concerns dictated that particular foreign powers would bear the brunt of the Company's rhetoric. For instance, the outbreak of the

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<sup>55</sup>For Indian slaves supplied to the French-controlled Mauritius, see Marina Carter, 'Indian Slaves in Mauritius (1729-1834)', *IHR*, 15, 1987-88, pp. 233-247.

<sup>56</sup>Slavery in India: Correspondence of Court of Directors and the Government in India, (*PP*), 1828, pp. 13-24 and 28-41.

<sup>57</sup>See *Press List of Ancient Records of the Government of India in the Public Department*, IV, pp. 43-44 for arrangements to be made by the Company for supplying male slaves from Madagascar to the west coast of India in 1757, and p. 106 for the Directors' specifications regarding the kind of male slaves to be supplied from India to St. Helena.

<sup>58</sup>For the permission to transport slave boys and slave girls from India upon the execution of such security bonds, see BPubC, P/1/47, 12 Dec. 1770, no. 2; P/1/49, 2 Nov. 1771, no. 9; P/1/51, 7 Jan. 1772, no. 11; P/2/3, 25 Jan. 1773, nos. 7-8.

<sup>59</sup>Court's letter to President and Council at Fort St. George, July 1782 in Home Misc. 163, pp. 175-182, specially paras 16-17.

revolutionary wars and the desire to prevent the reduction of slave-holdings both in the British Isles and in the British West Indies appears to have influenced Dundas' Committee Bill of 1792 restricting the 'exportation of slaves ... to any of the Islands plantations settlements colonies or Dominions of any foreign State or power'.<sup>60</sup> At the same time, the attempt to preserve the monopoly of the Royal Africa Company against private trade required that no vessel could leave British ports for the Coast of Africa unless such a vessel was already 'employed in the African trade or contracted for and taken up for that purpose previous to 1792'. Similar concerns were effective in the case of the Company's territories in India. When in 1794, the Dutch joined the French revolutionary armies, the Council in India wrote of its fears that the Dutch would succeed in purchasing Cochin from the Raja of Travancore. This would disadvantage the Company not only because it would provide a 'depot for warlike stores' but also because it would facilitate the continuation of the 'traffic in slaves carried on to a considerable extent by the Dutch to the great detriment of the British possessions on that coast'.<sup>61</sup>

These essays upon the slave-transfers of other foreign powers rested ultimately on the Company's need to conserve both slave-holdings and financial resources. At the same time that it prosecuted the French and Dutch traders for denuding the Company's territories of slaves, it absolved both itself and specific indigenous regimes from the ambit of such legislation. From Awadh in 1770, two Company servants had corresponded with each other for the grant of a passport for the eunuch in the service of Shujaud Daula, being sent to 'purchase a number of boys and girls who are starving at Patna,... who he intends to bring up for the service of his household'.<sup>62</sup> In 1795, five years after the Proclamation of 1789, the Governor-General in Council granted a *dastak* to a merchant called Muhammad Karbalai who along with other sundry articles imported nine Abyssinian slaves from Muscat as a 'gift' to Nawab Sarfarazuddaula of Lucknow.<sup>63</sup> Nor, when it came to the Company-led armies in India was the Council averse to

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<sup>60</sup>See Dundas' Committee Bill of April 1792 in Home Misc. 65 (3), pp. 73-271.

<sup>61</sup>Letter to Court of Directors, 17 January 1794, in *Fort William-India House Correspondence, 1792-95* (Delhi, 1955), XVI, p. 317. See Robert C.-H. Shell, *Children of Bondage: A Social History of the Slave Society at the Cape of Good Hope, 1652-1838* (London, 1994), p. 41, fig. 2.1; approximately 1500 slaves were transferred annually from Bengal and Malabar to the Dutch Cape Colony between 1777 and 1801.

<sup>62</sup>Captain Gabriel Harper to James Alexander, 25 March 1770, BS&MC, P/A/10, 15 April 1770. I thank Michael Fisher for this reference.

<sup>63</sup>*CPC*, XI, p. 233, no. 914; p.323, no. 1320 and p. 329, no. 1343. In 1796, the same merchant transported five Georgian slaves from Muscat to Calcutta, a 'gift' sent by a resident of Baghdad for the Nawab Vazir at Lucknow. In 1833, another consignment of eighteen slaves, brought from Mokha by two merchants to Lucknow, were not sent back for reasons which were both financial (the British Government would have had to incur the expense of the return passage) and diplomatic. Besides, the newly styled 'King' of Awadh had offered to provide for them as 'servants to respectable people' which was gladly accepted

considering the indemnification of indigenous holders whose slaves served in these.<sup>64</sup> In 1799, two Malay male slaves were officially procured by the Company for the Botanical Garden in Calcutta.

This clarification undermines the argument implicit in scholarly studies that there was a 'chain of events' leading to delegalisation of slavery in 1843. The beginning of the chain, depending upon the historian, may be 1774 (for Cassels) or Richardson's minute of 1808 (for Gyan Prakash).<sup>65</sup> Considering the brakes applied by the Company's judicial and executive officers to the abolition of slave-transfers and slave-holding within the territories of the Company, both the chain and its origins prove to be imaginary. The ways in which the Council in India sought to minimise the impact of Parliamentary Statutes, particularly 51 Geo III, Cap:23 of 1807, remove further doubts on this score. Copies of the Statute were forwarded only to magistrates of the seaports, as the Governor General in Council 'did not consider its provisions to be applicable to the importation or removal of slaves by land'.<sup>66</sup> The construction that the Council at Fort William put on these Acts of Parliament were (a) that these acts had been confined to the transportation of African slaves only to various parts of His Majesty's or the East India Company's territories (b) the powers vested in the several Admiralty Courts were limited to offences of importation and removal of slaves by sea. Other kinds of transfers could only be tried in England. Clearly, if the Acts had been intended to apply to inland transfers of slaves in the territories subject to the Company, 'every native carrying or removing a slave from one part of those territories to another is liable to be sent to England, to be tried for felony'. The transportation of 'whole nations among whom domestic slavery had existed', it was urged, could surely not have been the object of Parliament.<sup>67</sup>

The scrupulous care with which 'domestic slavery' was to be safeguarded by the Company

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by the Governor-General in Council. The Court of Directors clarified that there was to be no interference in the traffic so long as the slaves were not those kidnapped from the British territories. See correspondence in BC F/4/1479/58157.

<sup>64</sup>Sub Sec. Council Chamber to Sec. to BOR, 11 May, 1798 in Bengal BOR, P/73/32, 15 May 1798, no. 23. The instructions are to ascertain 'what consideration would satisfy' Raja Munnynath Singh whose slaves had joined the Ramgurh Battalion. For the original complaint see W.W.Hunter, *Bengal Mss. Records*, (London, 1894), III, no. 7404.

<sup>65</sup>For the full text of Richardson's proposals of 1808, inspired partly by the Parliamentary Act of 1807, Utilitarianism and Evangelical arguments, see BCrJC, P/132/21, 15 March 1816, no. 47.

<sup>66</sup>Judcl. letter from Fort William to Court of Directors, 29 Oct. 1817, paras 149-170, in Correspondence, E/4/98.

<sup>67</sup>Ibid., See also Judcl. letter from Fort William to Court of Directors, 30 Jan. 1813, paras 146-155, in E/4/85. Both letters emphasised the fact that the statutes did not affect to the smallest degree the relation of master and slave wherever it had existed before the Acts.

within its territories hinged, in turn, upon the securing of holdings against the depredations of other 'foreign' powers, and upon police regulations within the Company's territories to ensure the restoration of fugitive slaves to masters. Thus in the correspondence cited above, Regulation X of 1811 was represented as the definitive attempt of the Company to prevent 'importation' of slaves from foreign territories. What did such claims signify? While we will turn to the history of this regulation shortly, it should be noted that even for the 'sea-trade' a caveat had been entered for British subjects. Thus clause 5 of Regulation X said that for the more effectual prevention of the importation of slaves at the port of Calcutta, captains or supercargoes of vessels, with the exception of the Honorable Company's ships importing at Calcutta, should execute a bond of Rs. 5000 with the Company before landing their cargoes.<sup>68</sup> Considering that the Act of 1807 had already prohibited all trading in slaves, this exemption not only contradicted Parliamentary statute, but significantly reinforced the monopolistic position of the Company vis-a-vis other maritime powers. The inference again seems that the target was not trading *per se*, but the trade of other hostile European powers, and in some instances the 'private' trade of specific English merchants. The records of the Marine Department substantiate this interpretation: even in the 1830s stray commanders of the English East India Company's ships imported slaves from Africa to India.<sup>69</sup>

### **Remaking Domestic Mastery: Modification of Local Adjudicatory Norms**

Apart from the fact that diplomatic and fiscal concerns of the Company played a significant part in the passing of Regulations X of 1811 and III of 1832, such enactments were invariably confirmations of actions and initiatives of local English magistrates, either refusing to, or in restoring fugitive slaves to their old masters. Such enactments were thus fashioned to over-rule specific indigenous norms, and based upon a partial misrepresentations of the transactions. Just as in the late eighteenth century so in the nineteenth, pronouncements from the Sudder Dewanny and Nizamut Adalut were responses to local level magisterial initiatives. In 1798, the Judge of

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<sup>68</sup>For the text of the regulation as prepared by Colebrooke, Lumsden and the Nizamut Adalut see BCrJC, P/130/36, 6 Aug. 1811, no. 62. In this draft, the exemption of the Company's ship-masters from any bonds are repeated in two separate sections. For the final draft, see *Regulations Passed by the Governor General in Council of Bengal* (London, 1829), III, p. 460. Anderson, in 'Work Construed', argues that the scope of Regulation X was the trade in African slaves, but offers no explanation of clause 5.

<sup>69</sup>Letter of Marine Department to Court of Directors, 15 April 1831, BC F/4/1263/50837\*. This refers to John Croft Hawkins, Commander of Company's Sloop of war, Clive, who had carried 34 'boys' from Africa to India in 1830. Given the earlier record of John Butler, the African from Bristol, the letter of the Department appears disingenuous, in that the boys apparently chose to 'enlist in the service of Government... under the same forms, as are observed on the enlistment of Europeans'. The letter went on to specify that the names of the boys 'were all European' (like Thomas Westry, William Baker, Samuel Burne, Peter May etc.) and that 'none of them appeared to recollect their own Country names'. Some of them were assigned to the Indian Navy, where, it appears, they had already served.



Chittagong reported that three slaves had run away from their Indian master; at least one of them was then 'servant' of Mr. Coates, the Commercial Resident. The judge had suspended process 'for compelling his return', but asked the Nizamut Adalut for 'rules' to guide him in the matter. The latter responded by extending the scope of Regulation IV of 1793 (regarding the maintenance of the laws of the Muslims and the Hindus in suits of succession, inheritance, marriage, caste and religious usages) to slavery.<sup>70</sup>

Similarly, the initiative behind Regulation X of 1811 came from a case heard by the magistrate of zillah Goruckpore between 30 March to 26 April 1810.<sup>71</sup> In this, Dusrut Tuppa [Thapa?] claimed three males and three female slaves who had 'absconded' from him to the lands of the Rajah of Butol. Dusruth, who was both the Buxee of the Nepal Durbar, and nephew of the Chief ministerial officer of that Durbar, Meer Singh Tuppa, proved that he had received two of the slaves in lieu of his monthly pay; the others he had purchased four to fourteen years before the institution of the suit. He demanded either that the slaves be restored to him or that he be recompensed with their monetary value. The magistrate asked for the opinion of the judges of the Sudder Dewanny and Nizamut Adawlut. In June 1810, the Register of the superior courts, J. Shakespear, wrote to the Secretary in the Judicial Department that though the rights in slaves were recognised by the laws in force, in this instance it involved surrendering the six slaves - 'subjects of a foreign state' - or satisfying the monetary claim of the plaintiff. Instead of restoring the slaves to the complainant, on 6 July<sup>72</sup> the Governor-General in Council authorised the magistrate of Goruckpore to pay Rupees 226 to the claimant, but added

Unqualified as the Hindoo and Mahomedan laws respecting domestic slavery at present are, ... a regulation will be necessary, in order to establish the modification of it above noticed in the practice of our courts of judicature.<sup>73</sup>

What was the modification of 'unqualified' indigenous laws? The fact that the slaves claimed by the Nepali official were not returned in person but that a monetary compensation was ordered to be paid to the claimant was misunderstood by the senior officers given that indigenous adjudicatory bodies did grant compensation. In accordance with the principle outlined in this note, the Nizamut Adalut was asked to prepare a draft of a regulation. Before the regulation was ready,

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<sup>70</sup>Slavery in India: Correspondence (PP), 1828, pp. 74-75. This was the ruling that was upheld by the acting Governor-General in Council in April 1798. Incidentally, J. H. Harington the author of *Analysis of the Regulations and Laws of the Governor General in Council for the presidency of Fort William*, was the Register of this Sadr Diwani Adalut.

<sup>71</sup>Slavery in India: Correspondence (PP), 1828, pp.119-21.

<sup>72</sup>The date is wrongly transcribed in correspondence (PP), 1828, as 6 June, 1810. The comparison with the original BJC, (Civil), P/148/63, 6 July 1810, nos. 2-3, reveals the error.

<sup>73</sup>Letter of G.Dowdeswell, Secretary to Government, Judl. to Register of the Sadr Diwani Adalut, *ibid.*

in January 1811, Dusruth formally complained that 'children' from the hills were being conveyed into the Lower Provinces and sold there.<sup>74</sup> Thomas Brooke, the Agent of the Governor-General in the Ceded Provinces, issued orders to magistrates of Moradabad, Meerut, Saharanpur, and Bareilly directing the restoration of what he imagined were 'fraudulently' acquired slaves.<sup>75</sup> In response, the Government informed him that the traffic

not having been prohibited by a formal regulation of Government could not at the present moment be deemed absolutely illegal...and that the prohibition which the Agent directed the Magistrates to issue against the traffick in question ... must be considered to be strictly speaking irregular.<sup>76</sup>

However, as the Government of the East India Company was at peace with Nepal, a 'foreign' country, and was trying to mediate a boundary settlement prior to the Anglo-Nepalese war, it was willing to consider the Buxee's application seriously. Thus Regulation X of 1811 was passed on 6 August 1811.

The 'moral principle, abstract justice and humane object' the Government thought was embodied in this regulation was actually the preservation of the rights of slave-owners in 'foreign countries' to receive the person of the fugitive instead of any monetary compensation. As conceded later, the Regulation of 1811 was to facilitate 'the restoration of the slaves of Governments of neighbouring states with which the Company's relations were friendly'.<sup>77</sup> Accordingly, section 4 of Regulation X stipulated that the magistrate shall 'cause to be sent back to their friends or country any slaves so imported'.<sup>78</sup> Implicit in this recognition of the rights of masters to have their slaves returned, was a belief that 'a slave by entering the Company's territories does not become free; nor can he who was lawfully a slave emancipate himself by running away from one country where slavery was lawful to another country where it is equally lawful'.<sup>79</sup>

The construction the Nizamut Adalut (there is no record of the muftis and qazi having been consulted when such constructions were arrived at) put on the regulation of 1811, narrowed

<sup>74</sup>Translation of letter from Buxee Dusruth Singh, 14 Jan. 1811, in Extract Proceedings of Vice-President in Council, 26 April 1811, BCrJC, P/130/36, 6 Aug. 1811, no. 60.

<sup>75</sup>For the priority of diplomatic concerns within which slave-restoration was ordered, see T.Brooke to Kajee Bimshaw, Soobah of Kumaon, 22 March 1811, *ibid*.

<sup>76</sup>Extract Poll. Letter from Bengal, 27 July 1811, BC F/4/369/9221.

<sup>77</sup>Judcl. Letter from Bengal, 29 October, 1817, BC F/4/1234/40338, and Correspondence, E/4/98.

<sup>78</sup>W. Blunt and H. Shakespear, *An Abstract of the Regulations enacted for the Administration of the Police and Criminal Justice in the Provinces of Bengal, Behar and Orissa* (Calcutta, 1824), p. 127.

<sup>79</sup>Judcl. Letter from Bengal, 1 March 1817, BC F/4/1234/40338.

down the field of its operation even further. According to the latter, the Act of 1807 prohibited only the importation of slaves 'for the purpose of being sold, given away, or otherwise disposed of'.<sup>80</sup> If Regulation X of 1811 was to be brought in line with the Parliamentary Act, it implied that even bringing 'foreign' slaves into the Company-held territories was permissible so long as there was no resale subsequently.<sup>81</sup> John Adam, Governor-General till the arrival of Amherst, noted that Regulation X did not interdict 'the bringing in a man's domestic slaves for the purpose of keeping them'.<sup>82</sup> In short, the concerns that Colebrooke and other English jurists in the *Sudder Diwani Adalut* had about the rights of the masters in their household-slaves, who would naturally move with their masters when the latter moved between various territories, were written into the construction of Regulation X. Thus advising the magistrate of Agra in 1812, the Court observed that 'no part of the regulation in question was applicable to the sale of slaves not imported into the British territories'.<sup>83</sup> In other words, holding or dealing in 'indigenous' rather than 'foreign' (African, in the Company's sense) slaves was not criminal, nor were their transfers between different parts of the domain of the East India Company.

However, foreignness was a shifting criterion, sometimes defined in terms of territorial boundaries and sometimes of ethnicity. Thus when some police darogahs caught fourteen men from the territories of the 'foreign' state of Jaipur, who had brought fifty-nine slaves (predominantly female and young male) from Marwar to sell at Kanpur in 1813,<sup>84</sup> the Superintendent of Police of the Western Provinces, W. Blunt, urged the *Nizamut Adawlut* for another clarification that Regulation X was 'by no means intended... to prohibit or to interfere with the purchase or sale of slaves within the limits of the Company's territories, who may not have been so imported'.<sup>85</sup> The *Nizamut Adawlut* obliged by circulating its construction of 1812 again to all the Courts of Circuit on 5 October, 1814.

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<sup>80</sup>*Constructions by the Courts of the Sudder Dewanny and the Nizamut Adawlut of the Regulations and Laws for the Civil Government of the Whole of the Territories under the Presidency of Fort William in Bengal* (Calcutta, 1839-43), I, p. 26, no. 99.

<sup>81</sup>For a description of an African maid-servant, in the family of John Palmer, brought to India from England in the trousseau of Palmer's daughter, the wife of a British civil servant, see William Tayler, *Thirty Eight Years in India* (London, 1881), pp. 102, 112 and 202.

<sup>82</sup>John Adam Papers, Mss. Eur. F.109/35, (Misc. Notes) folio 1.

<sup>83</sup>*Constructions by the Courts of Sudder Dewanny and Nizamut Adawlut* I, p.26, no.99.

<sup>84</sup>Magt., Zillah Kanpur, to Ch. Sec. to Govt., 19 July and 22 July, 1813, BCrJC, P/131/20, 7 Aug. 1813, nos.42-43.

<sup>85</sup>For full text of the letter, see J. Carrau (ed.), *Circular Orders of the Court of Nizamut Adawlut Communicated to the Criminal Authorities from 1796 to 1853* (Calcutta, 1855), no. 141, pp. 52-53.

Dissent and query from specific individuals like Richardson, the magistrate of Bundelkhand, or individual police officers or collectors however reveal that the Company's government in India was not as monolithic nor homogenous in its policies as it would have liked to believe. Similarly, for each construction put forward by a Nizamut Adalut at Calcutta, dissenting queries were made by Fort St. George or Bombay. In the case of the construction of 1811, a judge of the Bareilly Court of Circuit by raising some salient questions, highlighted the limits of the official English debate. W. Leycester, in his report of 1815, pointed out that the local darogahs of police and the native law officer of the Court of Circuit did not interpret Regulation X as the Nizamut Adalut did. Then he went on to assert that all importation was disallowed by the Regulation regardless of the purpose for which such occurred, and such slaves should be manumitted. From this, Leycester moved on to a critique of the regulation itself, which, he said, distinguished between 'indigenous slaves' and 'imported' ones when there was very little material difference between the two. He gave the telling instance of the

female persons imported as slaves, being let out in retail for the purposes of prostitution, and any offspring they may have being sold, agreeable to the daily practice regarding the indigenous slaves of the country, for the benefit of the slave master.<sup>86</sup>

Leycester, like Richardson, appeared to have distanced himself from the 'law', as practiced by the local English magistrates as well as that promulgated by the executive. In 1816, he had dissented from the magistrate of Farrukabad who had ordered his darogah to recapture a runaway female slave Gunna on the complaints of her mistress.<sup>87</sup> When Leycester was Chief Judge of the Nizamut Adawlut between 1820 and 1823, he finally gave decision against another magistrate of Benares, who had restored an identical slave fugitive to her mistress.<sup>88</sup> Yet the two cases he had decided had had 'prostitute' mistresses as plaintiffs, with important men of the region as defendants. Leycester's vilification of the mistresses and of prostitution, and his decision in favour of the powerful men who he praised for wanting to 'marry' the runaway slave, obscured the fact that such slave-girls had been hired by the men previously, as well as the fact that the mistresses too had been slave-concubines to, and had gained their licence, and patronage, from similarly powerful men of the area.

Similarly, in 1816, Leycester's arguments obscured the main concern of the executive. Acting upon the presumption that 'free' people were kidnapped and enslaved, Leycester had

<sup>86</sup>Slavery in India: Correspondence (*PP*), 1828, pp. 342-345.

<sup>87</sup>Report of the Law Commissioners, (*PP*), 1841, Appendix II, pp. 330-34.

<sup>88</sup>See **Mussamut Chutroo vs. Mussamut Jussa** in *Report of Cases in the Sudder Dewanny Adawlut*, III, pp. 188-91.

argued that resale might occur after a long period after the original acquisition, at which point the kidnapping would be remembered by very few. However, Leycester had ignored the judicial evidence of the provincial courts, where cases of kidnap and theft were mostly between slaveholders, and the fact that most of the people said to have been kidnapped were those who were already enslaved.

Leycester's omissions were compensated by other British Circuit judges and magistrates. It was their complaints, rather than Leycester or Richardson's arguments, that were decisive in formulating legislation. For instance, another second judge of the Court of Circuit for the division of Dacca, R. Dick, partly on the basis of communication with the magistrate of Sylhet, had got to the heart of the matter in his report of 1813. In this, he reviled the traffic in slaves 'fraudulently' possessed by people who

entice them to desert their masters, or, by the same seductive influence, cause them to be inveigled away through the medium of their private agents, and afterwards be sold at such distant places as to prevent discovery, or the return of the unfortunate being.<sup>89</sup>

Though persistently bracketed under the heading of the 'kidnapping of children' in the official records of the Court of Directors and of the Governor-General in Council, Dick's report minced no words on the need to restore these slaves to their 'families'.

Despite this clarity, the Nizamut Adalut asked the Dacca Court of Circuit whether the persons described as 'inveigled' were free or slave. The former magistrate of Sylhet, J. Hayes, who was in Tipperah by 1816, responded promptly: most of the trials, he said, were for the offence of

inveigling persons already in a state of slavery... the generality of the former description of persons above alluded to are females, who, being more employed for domestic purposes than those of the other sex, are in greater demand... These females are carried to Dacca, Calcutta, Moorshedabad, Patna, and to those opulent cities which constantly insure for them a rapid and profitable sale.<sup>90</sup>

Other magistrates were equally emphatic. The assistant in charge of zillah Dacca Jellalpoore referred to the common pattern of disposing of slaves by regular deeds of sale which were registered in his court,

It rarely if ever happens that persons in a free state are inveigled away under false pretence ... unless in the instance of young females who being obtained from their friends under pretence of marriage are disposed of either to public women or to

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<sup>89</sup>Sir R.K. Dick to M.H. Turnbull, Register of Nizamut Adalut, 12 March, 1813, BCrJC, P/132/27, 24 May 1816, no. 41.

<sup>90</sup>J. Hayes to H. Walters, Register to the Court of Circuit for Dacca Divn., 10 Feb. 1816, *ibid.*, enclosure in no. 42.

rich individuals as servants.<sup>91</sup>

By 1 May, 1816, the Nizamut Adalut was convinced of the expediency of 'including some express provision' on the illegality of inveigling slaves, in the draft of a regulation required by government.<sup>92</sup> The main concern of the Bengal Government was evident from the fact that in the regulation it had asked the Nizamut Adalut to frame, it only required 'that the future purchase or transfer of slaves shall be regularly registered'.<sup>93</sup> The great store set upon regulating slave-transfers through legal tender corresponded with the stamp paper of 8 annas value on which a master/lessor/ had to submit a claim in a slave according to Regulation I of 1814.<sup>94</sup> Besides, the emphasis on registration, contracts and bonds, appeared particularly ominous in the aftermath of the ordinance of 23 April 1816 passed by Moira's government. By this ordinance seamen (*lascars*) and menial servants alike were to be coerced into accepting contracts and into fulfilling them.<sup>95</sup>

This provided the background in which Richardson's proposals were finally discussed by a court that had effectively suppressed his minute of 1808.<sup>96</sup> For the moment, the Nizamut Adalut assured Leycester that Regulation X would be extended to emancipate slaves 'imported' into British territories, except '*bona fide* domestic slaves, whom their owners might have possessed for one complete year before their importation'. The latter would be registered as suggested by Government. As for the children of slaves and their liability to sale that Leycester had referred to, the Nizamut Adalut urged that 'whilst it is allowed to remain, with respect to the progeny of existing slaves, born under the British Government in the West Indies, and South Africa, the abolition of it... could not... be consistently proposed for India'.<sup>97</sup> The sum of these discussions was Regulation VII of 1819 - a regulation to better protect the rights of masters, by authorising the magistrates and joint magistrates to proceed in a number of ways in the restoration of such female slaves as had been 'inveigled' away.

Yet this is not obvious from the terminology of the Regulation, the preamble of which

<sup>91</sup>H. M. Pigou to H. Walters, 1 March 1816, *ibid.*, no. 44. See also E. J. Harington, the magistrate of Zillah Mymensingh, to H. Walters, 7 April 1816, for the opinion that no prosecutions had been occasioned by the enticing away of free persons.

<sup>92</sup>Register of the Nizamut Adalut to Sec. to Govt., Judcl., 1 May 1816, *ibid.*, no. 42.

<sup>93</sup>Sec. to Govt. to Register to Nizamut Adalut, 24 May 1816, *ibid.*, no. 46.

<sup>94</sup>Cited in Draft Regulation submitted by J.H.Harington, 21 Nov. 1818, BC F/4/1234/40338.

<sup>95</sup>'A Rule, Ordinance and Regulation for the Good Order and Civil Government of the Settlement of Fort William', 23 March 1816, BCrJC, P/132/24, 26 April 1816, no. 27.

<sup>96</sup>Judcl. Letter from Bengal, 30 Aug. 1827, BC F/4/566/13970.

<sup>97</sup>Resolution of the Court of Nizamut Adawlut, 12 June 1816, *ibid.*

spoke of the 'peace and happiness of families' which was destroyed by 'evil disposed women, who are employed to entice and take away the wives, or female children, of the fixed inhabitants from their respective houses, for the purpose of rendering them prostitutes, or concubines, or of otherwise unlawfully disposing them'.<sup>98</sup> The context within which this regulation was framed fleshes out the substance of the familial language, and its anti-slave direction. Clause II provided that 'enticing' any female - whether she was a 'married woman living under the protection of her husband, or of any person having the care of her in his behalf' or whether she was an 'unmarried female under the age of fifteen years, living with her parents or other legal guardians, or any persons acting in their behalf'- and disposing of her without the consent of the husband or parent or other guardian, was liable to imprisonment for six months.

As if to ensure that the language of kinship did not mislead the English magistrate, clauses V and VI empowered the magistrates to also proceed against those 'workmen and domestic servants' who 'wilfully quit the service engaged for before the expiration of the term agreed upon' (even though it acknowledged that many domestic servants did not enter into such 'engagements'). In the consolidated reproduction of Regulations of 1774 and 1816, such people who 'wilfully neglect to perform the work so contracted for' were made liable to imprisonment of one month for the first offence and longer terms of imprisonment for repeated misdemeanours of this kind. Only those recalcitrant 'workmen and servants' who could prove that their desertion was occasioned by 'gross maltreatment, or by non-payment of wages due' to the satisfaction of the magistrates could escape punishment.

It is worth asking why a Regulation that appeared overtly to be protecting 'wives and daughters' from kidnapping and sale should have to provide so minutely for the immobilisation of all 'servants'. This Regulation did not just tie all slaves down in whatever location, capacity or function they were found, it made the 'husband, parent, guardian' the sole and rightful authority for disposing and discharging of the slave in question. In other words, the right of the holder to initiate a transfer was secured, both against the encroachment of others and the reluctance of the slave.<sup>99</sup> The substance of the crime of 'kidnapping', as far as the English law-makers were concerned, was specifically that of an action by which 'injury to property' had been caused; if the child-woman had not been property in this sense, and had merely been abducted for purposes of

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<sup>98</sup>The text of Regulation VII of 1819 is printed in *Papers relating to East India Affairs: Regulations passed between 1810 and 1824* (House of Commons, 1825).

<sup>99</sup>For the use of Regulation VII in a case in which the Magistrate of Murshidabad, A. Smelt, issued process against the eunuchs and servants of the deori of Buhoo Begum for inveigling away the slave-concubine (*mankooher*) of Ufzul Ali, a son of Noorunissa Begum, see AGG Thoresby to Sec. Macnaghten, 28 Nov. 1833, BC F/4/1522/60090A. The Agent believed that after having come into some heritable property, the concubine had absconded 'as if with the wish of becoming her own mistress'.

vendetta, Regulation VII of 1819 did not apply.<sup>100</sup>

Having affirmed the rights of masters, the Regulation then went on to throw the financial costs of such insurance on to them rather than on to the Company or its administrative machinery. This it did in two disparate sections: in Clauses III and IV, it provided that all 'husbands' (especially of pregnant or nursing women) and 'fathers' (of 'legitimate' and 'illegitimate' children) were to maintain their 'families' in a suitable manner, so long as the woman did not find another 'protector'. In the third section of Clause VI, a similar provision was made for the payment of wages to the discharged servant by the master.<sup>101</sup>

### **Conflicts In the Bureaucracy: Revenue, Legality and Territoriality**

The primary agenda of slave-restoration to specific masters, and diplomatic and fiscal concerns which determined just which master would succeed at a particular point in time, persisted into the 1830s and 40s. As the frontiers of Company rule were extended, areas that had earlier been 'foreign' territory (hence liable to claim the privilege of having their runaways returned by the magistrates and officials of neighbouring British- controlled regions) were in turn annexed to British rule. This enhanced the contradictions within the administration. Magistrates, judges and revenue officers were caught between the twin visors of maximising revenue collection from the newly-annexed region, and thus allowing the revenue-defaulting masters to sell their slaves and pay their dues, and simultaneously ensuring that the slaves thus sold/ transferred/ mortgaged could not be reclaimed. Legal guarantees protecting the creditor's right to sell the mortgaged slave of the debtor had to be balanced against fiscal claims made as compensation for a slave lost to the original holder.

Since the maintenance of contracts like mortgage, lease and hire, was important to liberal and conservative alike, the need to maintain the viability of such contracts and agreements between masters was optimised. As illustration, we will consider the case of Assam - the region the Governor-General in Council claimed had inspired Regulation III of 1832. Here, in 1823, before the Anglo-Burmese war broke out, the Commissioner of the Rungpore Division, D.Scott, like his counterparts in the Upper Provinces, had also restored runaway slaves to their 'foreign',

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<sup>100</sup>Opinion of Register of the Nizamut Adalat, NWP, Agra, in letter to Register of Nizamut Adalat, Fort William, 8 Oct. 1844, regarding **Ramjeewun Pandey vs. Hingoo Pandey and Bishnu Pandey**, BC F/4/2294/118156.

<sup>101</sup>By subsequent constructions by the Courts of Sadr Diwani and Nizamut Adalat, the ability of servants of long service to recover their wages shrunk. Under a construction of 1831, a servant could not sue for sums exceeding one year's worth of wages, and by other constructions of 1821 and 1846, suits of servants against European British masters under Regulation VII were disbarred from magistrate's courts. See H.C.Tucker, *My Notebook of Rules and Regulations, Collectory and Faujdary* (Calcutta, 1850), pp. 274 and 389.



presumably Burmese, masters. However, the onset of the Anglo-Burmese war, and famine, made Scott change tack. In 1825, he permitted male *paiks* whose labour had been the currency in which the Assamese kings had paid their ministerial officers, and who had been important in the war with Burma, to 'sell' and bond themselves to individuals and creditors.<sup>102</sup> As Scott justified it in 1828, allowing the alienation of 'public' slaves to 'private' individuals went hand in hand with the resumption of the land that had constituted the *paiks'* wages (the peculium), and securing guarantees that the new British-controlled Assamese state did not, in turn, demand the services of the slave in his capacity of a *paik*. Such a guarantee, and the transfers, had been confirmed by the Government of Bengal in 1829.<sup>103</sup> Scott subsequently raised the matter of protecting the new slave-owners' and creditors' interests further.

The query rested, not on the existence of Hindu or Islamic law, but on the judicial implementation of Regulation X of 1811 by a magistrate against a native of Patna for taking his Assamese slave with him out of the province.<sup>104</sup> Since Assam was not to be considered a foreign country, the new owners, he inferred, should not be punished for removing their slaves to Bengal. Scott, who had pleaded that owners of slaves should be allowed to transfer slaves to meet their revenue payments, clearly saw Regulation X of 1811 as an obstacle in the path of the liquidation of slave-mortgages and debts. For him the basic issue, after 1826, was the protection of the creditor's rights to 'remove' his newly acquired slaves or to sell the slaves of his defaulting debtor, without which the creditor himself may have been unable to meet the demands of the state.<sup>105</sup> If the construction of 1812 was to hold, then transferring slaves between and within Company's territories, should also be applicable to Assam now. Though Scott did not appear to have been aware of the Construction, or of the Circular Order of 1814, this was broadly the permission he

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<sup>102</sup>David Scott, AGG on North East Frontier, to Ch. Sec. GOB, 4 March 1828, BC F/4/1115/29887. Scott's conceptual failure lay in not recognising that the *paiks* might have represented 'public holding' of slaves by the Assamese monarchy.

<sup>103</sup>Letter from Court of Directors to the Governor-General in Council at Fort William, Poll. Department, 10 March 1830, BC F/4/1371/54510. A contemporary Assamese account of this period suggests that when the Burmese invaded Assam, they imposed a graded *kharikatana*, a poll tax, on all Assamese, including one of 8 annas on freedmen, bondsmen and slaves. Amongst the measures Scott instituted in Assam after 1826, was the confirmation and extension of the tax payable by slaves. See S.L. Baruah, 'Sadar Aminar Atmajivani', *BPP*, 97, 1, 1978, pp.79-85.

<sup>104</sup>D. Scott to Sec. to Govt., 25 Sept. 1830, BC F/4/1454/57705.

<sup>105</sup>D.Scott, AGG on North-East Frontier, to Ch. Sec., 25 March 1829, BPC, P/125/62, 10 April 1829, no. 60; Scott to Swinton, 31 Dec. 1829, BPC, P/126/11, 26 Feb. 1830, no. 17. In the second letter, Scott even appeared to recommend that the government acquire the slaves of the debtor (and defaulter) by paying the creditor (with whom he has mortgaged or pawned his slave) a fixed rate for the slaves which the creditor is not being allowed to sell. This kind of sale of mortgaged or farmed slaves was precisely what Reza Khan had tried to prevent, in redraft of Cornwallis's *ajir* proposals, *CPC*, VIII, nos. 1325-6, and no. 1379, pp. 585-88.

asked the Bengal government for.

Led by the reference to 1811, the latter thought that the issue was the affirmation of all Assamese masters' rights in their slaves, and the latter's immobilisation within Assam. Accordingly, it asked the Nizamut Adalut to formulate a new regulation to prevent the 'importation' of slaves from Assam into other British-held territories. Both the central executive and the judiciary addressed themselves to the confirming of the rights of Assamese masters to have their slaves restored to them in the event of flight or kidnapping. In the Nizamut Adalut, the discussion again revolved around the 'removal of slaves', implying that such 'removal' was being done by unauthorised third parties. The draft regulation the court prepared stipulated that (1) all slaves removed by sea or by land, without the permission of the Governor-General, from provinces which were not dependent on the Presidency of Fort William at the date of the enactment of Regulation X, 1811, [i.e. Assam] into the provinces which were, would be considered free; and all persons concerned in these transfers would be liable to six months' imprisonment and fine not exceeding 200 Rupees; (2) these provisions were to apply to the transfer of slaves from the provinces dependent on Fort St. George and Bombay into Bengal also, and (3) all sales of children were to be voidable after the children reached the age of eighteen years; any one above that age who executed a similar engagement could be compelled to serve for five years only from the date of the engagement.<sup>106</sup>

Given the tenor of the judicial discussion around the restoration of fugitives rather than the payment of compensation to litigating owners, the proposals of the Nizamut Adalut were broadly consistent with their previous formulations. However, Bentinck's council pointed out that the first provision was illogical because 'it provides that a man shall be deprived of his property simply by reason of his removing it, - whereas, if the possessor of slaves happen to remain stationary his property in his slaves continues undisturbed'. The rules appeared to distinguish between the owners bringing slaves from newly acquired territories into Bengal, and owners living in, and transferring slaves between, the old provinces. Further, where regulation X had only penalised 'removal of slaves for the purpose of traffic, by the proposed enactment their removal at all' was to be prohibited.<sup>107</sup> As for the third provision, the Government reiterated its belief that the transfers of 'children' in times of scarcity saved them from starvation; rather than imposing a limit of 18 years, the Governor-General recommended that it would 'appear more consistent with equity to provide that the term of servitude shall not exceed what may be fairly

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<sup>106</sup>Register of the Nizamut Adalut to J. Thomason, Dy. Sec. to Govt., Judcl., 19 August, 1831, BCrJC, P/140/1, 8 Nov. 1831, no. 47.

<sup>107</sup>W.H. Macnaghten, Sec. to Gov.-Gen. to J.Thomason, 30 Dec. 1831, BCrJC, P/140/5, 13 March 1832, no. 21.

due with reference to the consideration received by the obligor'.<sup>108</sup> Put plainly, such 'children' would be able to claim their liberty only 'when their services may be supposed to have repaid the cost of their maintenance'.<sup>109</sup> Clearly, Bentinck's penurious administration was to take no chances with the payment of compensation to owners of slaves. Though this clause was dropped altogether from the final draft, the scope of the regulation was sufficiently anti-slave even without it. It ensured slave-owners of Assam that they were protected against the 'removal' of their slaves by others not authorised to do so. Clause III specified that persons concerned in the sale and purchase of slaves 'so removed, knowing him or her to have been so removed' on conviction before a magistrate would be liable to imprisonment.<sup>110</sup>

Chasms in the interpretation of regulations, and in the communications between regional colonial administrations and the central colonial government, were obvious. Since the restoration of fugitive slaves was viewed as an important part of diplomacy by the Governor-General in Council, the problem that a local administrator like Scott had referred to - the mortgage and eventual sale of slaves by Assamese masters and creditors - could be allowed to resolve itself by default.<sup>111</sup> However, an attempt to paper over the differential priorities of local and central administrations revealed that the central government in this period itself gave contradictory assessments of Regulation III. In 1833, the Commissioner of Circuit for Assam submitted a list of rules to be established by proclamation which included provisions for the slave-born children in Assam to be bound 'to serve their Parents or owners' until the attainment of 18 years, the registration of slaves and slave-born with *putwarries* of villages, the rights of 'parents' to sell their 'children' in times of distress, and so on.<sup>112</sup> In the course of discussion, T.C. Robertson who had served as Commissioner of Assam before being appointed to the Sadr Diwani Adalut, urged that the practice of borrowing money by pledging 'personal service', was very common in Assam and

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<sup>108</sup>W.H.Macnaghten to J. Thomason, 26 Oct. 1831, BCrJC, P/140/1, 8 Nov. 1831, no. 50.

<sup>109</sup>J. Thomason to W. H. Macnaghten, 8 Nov. 1831, *ibid.*, no. 51.

<sup>110</sup>Regulation III of 1832 was entitled 'A Regulation for extending the provisions of Regulation X, 1811'. For the full text of Regulation III, see *Papers Relating to Slavery in India (PP)*, 1834-39, pp. 394-95. By specifying that 'all slaves... removed... for purposes of traffic...are hereby declared free', it left the traditional opt-out clause for slave-holders, that slaves brought from Assam (or elsewhere in India) were for domestic purposes, not further sales.

<sup>111</sup>For intra-local conflict around the ransoming of approximately 10,000 slaves from their Khamti and Singhpo masters in Upper Assam, in order to form them into a militia under British command, see F. Jenkins, AGG North East Frontier to W. H. Macnaghten, Sec. GOB, 16 Jan. 1836, and Major White to F. Jenkins, 15 Dec. 1835, BPC, P/127/31, 9 Feb. 1836, no.2 and no.5.

<sup>112</sup>F. Jenkins to R. D. Mangles, Sec. to GOB, Judcl.Deptt., 22 Aug. 1833, and correspondence, Report of the Law Commissioners, (PP), 1841, Appendix VI, pp. 405-09.

any rule declaring invalid a suit for reclaiming the services of a bondsman would abrogate the practice. He was reassured by government that no such consequence was intended by these measures. It was only intended that such personal service should not be transferred by sale to a third party by the creditor, and the slave/bondsman transferred out of the jurisdiction of the erstwhile owner.<sup>113</sup> The central government in this instance, tried to represent Regulation III as a measure of protection of the creditor-owners of slaves from the demands of the original masters of hired-out or mortgaged slaves for repossession or reclamation.

However, to other presidencies, confused by the apparent contradiction between the Supreme Government's permission of internal transfers in 1807, and the prohibition of such transfers in Regulation III of 1832, the central government painted Regulation III in different colours. The government of Fort St. George pointed out to the Bengal government that clauses I and II contravened its own construction of the Parliamentary Act of 1807, by now appearing to disallow the transportation of slaves from the erstwhile 'foreign' territories to the Company's jurisdiction.<sup>114</sup> In response, the latter pointed out that no such contradiction existed: Sec. II, it said, 'does not declare the removal of slaves by sea to be punishable', but that slaves removed after 1811 were to be considered 'free' (not paid for?). Moreover, the penalties provided for in the Regulation were not attached to the 'removal' of slaves but 'for subsequent sale or purchase of slaves so removed'.<sup>115</sup>

Strictly drawn notions of territoriality, of the finite boundaries of each economic transaction, and the bifurcation of 'domestic use' from 'economic exchange' had evidently come to bear on the question of what was or was not 'removal' or 'trade' in slaves. Thus even with regard to the 'foreign' African slave imported by sea from the African coast or Persian Gulf in the period 1833-1845, the fractures between central and local administrators persisted. In 1834, the Chief Magistrate of Calcutta, D. McFarlan, asked the Bengal Government to enable pilots of vessels coming 'from a certain quarter of the world' to report to the police every case where they might suspect that male or female slaves were on the ships coming into Calcutta.<sup>116</sup> The Marine Board, and the Government of Bengal, while broadly accepting such a suggestion, demurred that

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<sup>113</sup>Judcl. Letter from the Governor of Bengal, 6 July 1837 in Papers Relating to Slavery in India (PP), 1834-39, 51, no. 697, pp. 79-80.

<sup>114</sup>Sec. Fort St. George to Ch. Sec. to GOB, 7 Sept. 1832, BC rJC, P/140/11, 25 Sept. 1832, no. 8.

<sup>115</sup>Sec. to Govt. to Actg. Sec. to Fort St. George, 25 Sept. 1832, *ibid.*, no. 9.

<sup>116</sup>D. McFarlan to Sec. to Marine Board, 26 May, 1834, BC F/4/1528/60416.

the pilots should not be held responsible 'should any slaves be landed from any particular vessel'.<sup>117</sup> So when one such young male slave, who had been employed as a *lascar* by his owner, Ali Abdulla, in the 'Aden Merchant', was suspected of having been sold at Calcutta in 1843, the Bombay Government's enquiry from the Chief Magistrate of Calcutta elicited this reply:

The greater portion of the Arab vessels coming into Port have slaves either as seamen or domestic servants - So long as trafficking with them is not practised within these Territories, the Police have not considered themselves bound to interfere.<sup>118</sup>

The official belief that slave-use in a 'domestic capacity' was separable from 'sale' for which the owner could be prosecuted, flatly failed to comprehend the complex materialities of a slave's life. In fact, the 'use' of the apparently disembodied 'services' of a slave, and the 'exchange' of such services for cash or goods occurred simultaneously or serially within 'domestic' holdings. As evidenced with the leasing/mortgaging of slave women, so too for male slaves. For instance, in the case of the African male slave, Nusseed, the subject of the enquiry, who had originally belonged to Ali Hamed of Aden, and had been sold to Ali Abdulla, then put together with three other male slaves to work as *lascars* in the ship, the masters' domestic authority over slaves was the precondition for their profitability. Ali Abdulla had charged the owners of the ship, Sorabji & Co. for their wages, as an earlier master too had done when putting Nusseed to work as a *khalasi* in a boat.<sup>119</sup> Where slaves were the subject of economic transactions, it was the domestic authority of the master or mistress that determined whether he/she would be the subject of other economic transactions. Thus Ajeema, the ten or eleven-year-old female slave whom her holder had kept three or four years in his house (domestic) in Furrukhabad was then taken to Muscat and sought to be exchanged for a Swahili male slave.<sup>120</sup>

### **Structures of Consensus Within the Colonial Bureaucracy**

The differences aired during the discussions of the 1832 draft submitted by the Nizamut Adalut may suggest that judicial officers, in the 1830s at least, may have been taking a more ameliorative stance than taken in 1811 or the stance of the executive. However, this was not how they

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<sup>117</sup>Sec. to Marine Board to D. McFarlan, 31 May 1834, and Sec. to Govt., Gen. Dept., to D. McFarlan, 9 June 1834, *ibid*.

<sup>118</sup>Ch. Magt. of Calcutta, J. H. Patton to Sec. to GOB, Judcl., 10/20 March 1845 (error in original letter), Enclosure II in Sec. to GOI to Ch. Sec. to GOBy., 18 Apr. 1845, BC F/4/2112/9946.

<sup>119</sup>Ch. Magt. of Calcutta to Sec. to GOB, Judcl., 20 Nov. 1843, and Poll. Agent at Aden to Ch. Sec. to GOBy., 23 Jan. 1844, BC F/4/2066/94848.

<sup>120</sup>Enclosure in letter from Sec. to GOBy., to Sec. to Government of NWP, Agra, 27 Nov. 1843, BC F/4/2112/99472.

represented their own proposals, characterising them as attempts to ensure that the 'existing state of the law was altered as little as possible'.<sup>121</sup> Nor was there a very material separation between the British colonial members of the executive and the judiciary in terms of personnel. Many judicial officers of the Company's civil service acted in executive capacities right through the period, like H.T. Colebrooke who was sent as Resident at the Nagpur court in 1801. Thomas Pattle, the Chief Judge of the Murshidabad Adalut, held the post of the Paymaster of the Nizamut stipends and acted as the Agent of the Governor-General. W.H. Macnaghten, the son of a judge of the Supreme Court and an authority on law in his own right, was the Secretary of the Governor-General in both the Bentinck and the Auckland administration in the 1830s till his death in the Afghan campaign.

A substantive continuity also existed between the lower and higher rungs of the civil service and judiciary. Thus civil servants of the Company who began as magistrates in the districts and eventually became judges of the Sadr Diwani and Nizamut Adalut tended to hold the same attitudes towards interpretation of law. Though it would be illuminating to study all the judges between the period 1790-1860, a cursory glance at some key figures suggests the continuum that could emerge between English magisterial decisions, and Sadr Courts' decisions. For instance, T.C. Robertson had served as magistrate in Patna city, and in the Kanpur zillah, then as Commissioner of Assam Division after the cession of Assam, before being appointed as Judge in the Sadr Diwani Adalut. Similarly, magistrates who recorded their staunch pro-mastery opinions and actions in the 1830s, gave similarly anti-slave decisions in some cases in the Nizamut Adalut in the 1850s. A good example was R.H. Mytton, who as magistrate of Sylhet, had thought Regulation III of 1832 did not stop masters selling slaves from Sylhet in adjoining territories, and, as a judge in the Sadr Diwani Adalut in the 1850s, interpreted another legislative enactment, Act V of 1843, similarly.

Thus if the actions and decisions of magistrates and collectors were influenced by political and commercial considerations, the opinions of the administration owed their inspiration directly and explicitly to such officers. For instance, the Minute by which Governor-General Amherst suspended all discussion of slavery named H. T. Colebrooke as the authority on whose advice this was done.<sup>122</sup> Even when they were not named outright, the judicial civil servants played a very important role in setting the terms and direction of the discussion. An instance of this role was a private letter written by W. H. Macnaghten to Lord Auckland in 1837, in which one can discern the provenance of the subsequent minutes of that administration.<sup>123</sup>

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<sup>121</sup>J. Thomason to W. H. Macnaghten, 8 Nov. 1831, BC F/4/1454/57705.

<sup>122</sup>Minute of 5 Jan. 1826, BC F/4/1234/40338.

<sup>123</sup>W. H. Macnaghten to Lord Auckland, April 8, 1837 in British Library, Broughton Papers, Add.Mss.36473, folios 105-110.

The political secretary's letter warned the Governor-General not to introduce any 'rash measure which would excite the indignation of the people'. As proof that legislation for the emancipation of slaves was unnecessary, this letter pointed to the practices of the courts as already sufficiently liberatory. Referring to a Circular Order of the Nizamut Adalut which instructed local magistrates to refer persons claiming property in a runaway slave to the civil court to prove his 'right',<sup>124</sup> Macnaghten ingeniously asked, '...but whom is he to sue? He might as well sue an ox or an ass as the slave himself and by suing him he ipso facto admits the invalidity of his claim'. In the event of the slave being himself sued in a civil action, the courts would uphold the 'law of the defendant' and this would prevent 'a Mahommedan from owning a Hindoo slave and vice versa'. Having reduced the issue down to the 'Islamic' and 'Hindu' definitions of a slave, Macnaghten resorted to another device in the armoury of proslavery legalese: Sec. 15 of Regulation IV of 1793 and the decision of the Sadr Diwani Adalut in 1798 extending the scope of this section to include slavery. This was now again cited as proof that, given the legality of more numerous forms of slavery in Hindu rather than in Islamic law, a British judge could not avoid passing a decree in favour of a 'Hindu' master suing for his slave.

#### **Rhetoric of 'Preserved' Law and the Reality of 'Discretionary' Justice**

Was Macnaghten right in claiming that civil suits for repossession of slaves offered relief to slaves? This depended entirely on the economic and political muscularity of the claimant, and the social, moral or ideological bent of the local indigenous adjudicators. From Backergunge, it was reported that the maulvi in his capacity of *sadr amin* in 1820-21, had thrown out two claims in slaves as fraudulent.<sup>125</sup> In Chittagong, another such *sadr amin* had instructed a 'Mussulman native of some respectability' applying for possession of the 'daughter of a poor woman that had been sold to him by the mother' to recover the purchase money from the mother.<sup>126</sup> Another principal *sadr amin* in Tirhoot suggested that Regulation III of 1832 annulled all transfers and sales of slaves in the region.<sup>127</sup> However such 'native officials' increasingly found themselves at odds both with the Sadr Diwani Adalut as well as with provincial English officials. For instance, the *sadr amin* of Tirhoot found his interpretation of Regulation III struck down by the Magistrate

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<sup>124</sup>For text of two constructions one of May 1830 and another of March 1835 to this effect, see *Constructions by the Courts of Sudder Dewanny and Nizamut Adawlut of Regulations*, I (Calcutta, 1840), no. 550, p. 232; II (Calcutta, 1839), no. 939, p. 205.

<sup>125</sup>Report of the Law Commissioners (*PP*), 1841, Appendix II, p. 287.

<sup>126</sup> *Ibid.*, p. 289.

<sup>127</sup>Judge of Tirhoot to Register of the Presidency Court of Sadr Diwani Adalut, 20 March 1835, in *Constructions*, II, p. 214, no. 955.

and Judge of Tirhoot and the Sadr Diwani Adalut. Between them, the latter agreed that 'Regulation III of 1832 does not prohibit the transfer of slaves for money; it merely prohibits the removal [enticing/kidnap] of them for the purpose of traffic from one territory, British and foreign, to any other territory dependent on this presidency'.

However, if English officers increasingly implanted a different slave-law through Regulations, indigenous claimants appeared to have obliged and followed the changing norms in bringing such claims in slaves to a judicial resolution. As with Syed Afzul Ali using Regulation VII to effect the recovery of his concubine in Murshidabad in 1833, so in 1838 one Hameed Rassool remembered a similar (identical?) case in zillah Bihar when Afzul Ali had applied to the magistrate who referred him to the civil court. Here he had brought a regular suit against 'the slave, a girl and Salamut Ali, the person who was harbouring her; he got a decree and the girl was restored to him'.<sup>128</sup> Another man spoke of his father who had bought Chanda and Nida from their master: the women 'refused to come under his dominion, whereupon he sued them in the civil court of Sylhet...I continued it, and got judgement, which was confirmed on appeal in the provincial court of Dacca'.<sup>129</sup> The civil and sessions judge of Sylhet in 1836 had confirmed the fact that 'on a suit instituted in the civil court, and the claim being proved, an award is given declarative of the master's right to the slave: and on application from the master, the slave is apprehended and delivered to him. If the slave refuse to serve or to comply with the award, he is imprisoned so long as the master chooses to pay the subsistence money'.<sup>130</sup> Macnaghten's implication that slaves themselves could not be sued was belied by the number of cases (at least ten that were reported) that the Sadr Diwani Adalut had decided between the period 1830-1840 in which slaves themselves had been made defendants in civil suits for repossession.

Despite the half-truths and outright lies, Macnaghten's letter clarified that the recovery of a slave by a civil action meant that the slave had to be categorised as property. Once this was done, the rules applicable to property became not 'Islamic' or 'Hindu' law, but the rules derived from colonial slave-law. This had been hinted at by the Register of the Sadr Diwani Adalut in his instruction to the Officiating Judge of Zillah Shahabad in 1836.<sup>131</sup> The lower level judge had asked the court if it was within the competency of the munsiffs, sadr amins and principal sadr amins (indigenous maulvis and pundits appointed to these posts) to try and decide suits respecting the rights in slaves. The response of the Sadr Diwani Adalut was that such suits were cognizable

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<sup>128</sup>Report of the Law Commissioners (*PP*), 1841, Appendix I, p. 227.

<sup>129</sup>*Ibid.*, p. 256.

<sup>130</sup>*Ibid.*, Appendix II, p. 301.

<sup>131</sup>*Constructions*, II, no. 1022, p. 264.



because 'they must be looked upon in the same light as other personal property'. So suits regarding them must be held cognisable by the native judges. However, the Sadr Diwani Adalat further directed this subordinate official that it was 'highly inexpedient that such cases should go before a native should the reference of them to a European judge be practicable'. Such a preference for European judges made a mockery of the English claims that 'Islamic' or 'Hindu' laws were to be applicable to cases involving slaves and slavery. At the same time, the logic of recovering slaves by civil suits became abundantly clear. Since in theory, cases in criminal law were still to have been decided by 'Islamic' (read *faujdar*) norms, taking such claims beyond the jurisdiction of indigenous 'law officers' was in fact to leave slaves at the mercy of quite different adjudicatory norms.

The inference that in such civil suits, as well as in many criminal cases, both 'Islamic' and 'Hindu' customs and law was marginalised is reinforced by the institutional changes occurring as a result of Company Regulations. Regulation XV of 1805 had provided for the appointment of 'Mahomedan and Hindoo Law Officers' of the Zillah and City Courts to the posts of *sadr amins* in the zillahs and cities in which they were respectively employed. These *maulvis* and *pundits* had been allowed, as *sadr amins*, to try referred causes to the value of Rs. 100. Logically, in a civil suit for the restoration of a slave, they would have been, after 1805, the 'native judges' that the Sadr Diwani Adalat, from 1836 at least, was keen to avoid. By the Regulation I of 1810, judges of the Court of Circuit, which had supervisory functions over magistrates' courts, had been allowed to dispense with the *futwa* in criminal cases wherever they deemed it advisable. Regulation XVII of 1817 had enhanced this marginalisation further by providing that wherever the judge of a Court of Circuit differed in his opinion from the *futwa* of the Qazi or other 'Mahomedan law-officers', notably in areas of evidence, and acquittal, the proceedings were to be submitted to the Nizamut Adalat. If two or more judges of the latter court disagreed with the *futwa* of the law-officers of this court, they could overrule it, and pass sentence accordingly.

The rhetoric of the maintenance of 'Islamic' or 'Hindu' law persisted in the face of the evidence of the bureaucracy itself. By the 1830s, various magistrates testified that the 'Hindu and Islamic laws' were marginal to their decisions. An additional judge of Burdwan said 'magistrates know very little of either Mahomedan or Hindu law, and they very seldom apply to the *molvis* or the *pundits* of the courts for *futwahs* or *bewusthas*'.<sup>132</sup> Yet both judicial and executive officers in the higher echelons of the service continued to cite 'Muhammadan' and 'Hindu' law as the referents of anti-slave and pro-mastery decisions. Probably, instead of any particular law, magisterial orders were influenced by ideas of right and wrong derived from a composite universe

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<sup>132</sup>Opinion of R. Macan, Addl. judge of Burdwan, in *PP*, 1841, Appendix II, p. 277.

comprising a different slave-holding legalism, metropolitan abolitionism and the local and political weight of the contenders, according to their 'discretion'.<sup>133</sup>

As the central colonial administrative authorities' positions hardened, indigenous adjudicators still tried to interpret both Company Regulation as well as authoritative English pronouncements flexibly. In 1841, when a female Dher slave ran away from her master and refused to return, a maulvi of the Faujdari Adalut in Madras repeated what the Qazi-ul Quzat in Calcutta had urged in 1808. Reiterating the principle that only captives in war and their descendants were considered 'true' slaves in 'Islamic' law, this maulvi issued a *futwa* which by virtue of this strict delimitation of slave-status, released many slaves 'received from their parents during famine or at other times'.<sup>134</sup> The pro-slave interpretation infuriated Amos, one of the Law Commissioners, who characterised the *futwa* as 'gross misrepresentation'. Moreover, he asked, in an explicit abrogation of the Company's claims regarding criminal jurisdiction,

is the lawfulness of the status of slavery in this country among Hindoos...to be determined by a reference to the Muhammadan law Officer?... Did the British Government in applying the Mahomedan Criminal law to Hindoos destroy for all purposes of Criminal Law the Hindoo status of Slavery, Marriage, fraternity and other Civil relations?<sup>135</sup>

Masquerading with such legal masks - Hindu status of slavery, Islamic criminal law - was an unqualified endeavour on the part of the central judicial and legislative authorities to keep mastery intact, to force slaves back into the arms of their claimants, to avoid any fiscal demands of slaveholders upon the Company. In the process, they considerably expanded the possibilities of bondage, and substantially re-wrote Islamic law.

The consolidation and continuity of official insistence on the rights of masters, in an apparent closing of ranks against the abolitionists in the metropolis<sup>136</sup> as well as against ameliorationists in the Company's own administration, and against the opinions of maulvis favouring a pro-slave ethic in judicial cases, should further qualify any consideration of the

<sup>133</sup>In T. C. Robertson's words, 'we have been left to steer our own way between the antagonist prejudices of the natives ... and of our own countrymen', *ibid.*, p. 267. The joint magistrate of Midnapore referred to the discretion of the magistrate in issues between masters and slaves, *ibid.*, p. 275. However, simple intra-professional pressures, like the goodwill of superiors necessary for promotions, may also have overcome some magistrates. For a glimpse of conflicts between a magistrate Crawford and his superior officer, F. C. Smith, in 1831, over the restoration of a runaway female slave, see *Bengal Hurkaru*, 17 Jan.-9 Feb., 1843.

<sup>134</sup>Cited in Ch. Sec. to Govt., Fort St. George, to T.H.Maddock, 15 March 1841, BC F/4/1947/84542.

<sup>135</sup>Minute by A. Amos, 5 August 1841 in *ibid.*, pp. 132-35.

<sup>136</sup>See H. T. Prinsep's Minute of 31 July 1841, scathing about the 'exaggerated feeling' aroused by the abolitionist movement in England and Europe, in British Library, Broughton Papers, Add. Mss. 36473, folios 66-69.

'criminal' law as it was modified by Company regulation. This caution is even more necessary for assessing claims of delegatisation of slavery by Act V of 1843. During the years 1837-42, the Company's administrators and legislative authorities alike opposed the abolition of slavery. Just as Macnaghten lied, Governor-General Auckland's Minute of 6 May, 1839 took the tone set out by the judicial officer who was also his private secretary, and explicated their joint concern for the master. In response to an order of September 1838 from the Court of Directors, which urged the Government in India to pass a law establishing that any act that was a criminal offence continued to be punishable when done to a slave, Auckland demurred. He stated his personal preference for not regulating

the conduct of masters towards themselves ... it would seem impossible not to accompany the enactment of such a law ... with provisions giving to masters some easy legal means of obtaining the due services of their slaves ... if the Law were drawn and could be passed without injustice to masters simply in the more general form ... I should be prepared ... to give my assent to it.<sup>137</sup>

In yet another Minute of 1841, which referred both to the Report of the Law Commissioners on slavery of that year as well as to Commissioner Amos' belief in the masters' powers of 'moderate coercion and restraint', the Governor-General urged 'extreme caution in legislation ... for surely, if we legislate at all, we cannot legislate in favour of the slave'.<sup>138</sup> If, he added, the legislature in England persisted in the demand for an enactment, the masters 'might, not unnaturally, look upon themselves as grievously injured' and demand compensation for the loss of these rights; worse still, such an 'open extinction of slavery as a status in any manner admitted by our laws, may be expected to be received with discontent and resistance'. Two threats, not unrelated to each other, were erected at once: threats of violent resistance by indigenous masters, and a fiscal drain upon the Company. These were in turn heard with sympathy by the Court of Directors, who advised the Company in India to pass some legislation of its own in order to pre-empt a more drastic solution imposed by the Parliament.<sup>139</sup>

By 1843, after many drafts of legislation had been emended and discussed between the Law Commissioners and the Governor-General, a short promulgation was published in the Gazette. To contemporaries, especially those who were slave-holders, this Act offered a glimpse of

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<sup>137</sup>Minute of the Governor-General, 6 May 1839, in British Library, Auckland Papers, Add.Mss.37711, folios 60-65. Emphasis original.

<sup>138</sup>Minute of the Governor-General in the Legislative Department, Aug. 27 1841, in British Library, Auckland Papers, Add. Mss. 37713, folios 114b-115b. Emphasis original.

<sup>139</sup>Letter from Directors, G. Lyall and J. L. Lushington, 13 Oct. 1841, BC F/4/1947/84542. It is clear that the Directors' wish to avoid an 'act of hurried and imperfect legislation here, which, adopted under feelings of excitement, and without the local knowledge and information you possess might have consequences injurious to the public peace' was consonant with the Governor-General's wishes.

apocalypse. From Assam, 'almost all the higher classes' protested against the promulgation of this Act.<sup>140</sup> One group of land-holders from Sylhet predicted that it would 'tend to the ruin of all India, especially that of the respectable part of the population'.<sup>141</sup> These holders knew that the object of the act 'is not emancipation of slaves' but the issue of restoration of fugitive slaves ('forsaking their services') by the Diwani or Faujdari courts - the sum of Section II of Act V. Again referring to this section of the Act, another group of slave-holders from Bakarganj remonstrated that this would take away the 'control of masters... Because if the rights of persons in slaves cannot be enforced in courts the term "slave" will be obliterated'.<sup>142</sup>

Were their fears justified? Did the courts fail to restore fugitive slaves or stop declaring title to slaves in diverse ways after 1844? The Governor-General too had claimed that 'Magistrates do not interfere for the restoration of a runaway slave to his Employer'.<sup>143</sup> If this was so, how does one explain the joint complaints by certain inhabitants of a *mohalla* in Hughli town who were 'not relations of the children' claimed to have been 'stolen'?<sup>144</sup> How do we explain the fact that the 'boys' claimed to have been stolen were between seven years and sixteen years of age? Clearly the older forms of lodging complaints for the loss of the slave persisted as did the readiness of the bureaucracy to respond to these charges. In Bengal, few magistrates appear to have doubted the 'legality' of their own actions in catching and restoring runaways. For instance in 1844, the Magistrate of Murshidabad 'arrested four children ... who state that they have escaped from the Begum Ruhunissah's Dheoree' and asked the AGG to ascertain whether anything has been stolen. In response, Sitanath Bose, the Dewan of the Nizamut, confirmed that 'ten maid-servants of the Begum' had absconded, four of whom were attached to the Toshakhanah, two to the Rakabkana, and four were personal attendants.<sup>145</sup>

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<sup>140</sup>F. Jenkins, Commissnr. of Assam, to Under Secy. to GOB Judcl., 9 May 1844, BC F/4/2107/98688. The fear of aristocratic displeasure, and demands of compensation, also ensured that Act V of 1843 was not promulgated in any of the 'native states' evident in a list in BC F/4/2261/114628. For official justification of non-promulgation in these states or 'foreign territory', see BC F/4/2233/111702. For persistence of magisterial action regarding fugitive female slaves, see BC F/4/2112/99462 and BC F/4/2112/99475 (Gaikwar's slaves) and BC F/4/2112/99476 (Dhurrumpur's slaves).

<sup>141</sup>Abstract Translation of a Bengali Petition from the Zemindars, Merasdars, Talokdars, Pottahdars and Ijaradars of Sylhet, (680 signatures), 23 Feb. 1843, ILP, P/207/27, 7 Apr. 1843, no. 13.

<sup>142</sup>Translate of a Bengali Petition from the Landholders and others of the Distt. of Bakarganj (125 signatures), 10 March 1843, *ibid.*

<sup>143</sup>Minute of May 6, 1841, in British Library, Auckland Papers, Add. Mss. 37713, folio 102a.

<sup>144</sup>Magt. of Hughli to Under Sec. to GOB, 24 June 1845, BCrJC, P/142/34, 9 July 1845, no. 236.

<sup>145</sup>Magt. Murshidabad to AGG Berhampore, 11 Aug. 1844, and Sitanath Bose to AGG, 11 Aug. 1844, *MNLR*, II, p. 502.

### The Courts and the Protection of the Domestic

As Auckland had admitted, the law 'depends upon the opinions of those by whom it is administered and is liable to fluctuate with a change of functionaries'.<sup>146</sup> Thus it becomes even more crucial to study the decisions of the provincial and higher courts in order to gauge the implementation of Act V. Significant mainly because the sum total of delegatisation was that no rights arising out of an alleged property in the persons and services of a slave would be enforced by any civil or criminal court or Magistrate, the records of both provincial Sessions and Presidency Sadr courts in the 1850s reveal that slave-holders continued to bring private prosecutions for their runaways and conveyed slaves, and the courts continued to declare entitlement to them. In the case of *Musst. Kumollee v. Amjad*,<sup>147</sup> the sessions judge of Tipperah, H. C. Metcalfe, recorded that a pregnant 'female of very low standard of intellect' had been induced to accompany a man Tumeezoodeen to his house by a promise of marriage. In association with Amjad, he sold the woman, in the first instance, for the sum of Rs. 8 to one Arif Chowdhury. The latter, 'happening to hear that a chuprassee ... had a claim upon the woman, became alarmed and after fifteen days, returned her to the sellers'. The second time around, they offered her to the wife of one Ahmed Meeah for Rs. 6, but the latter declined to make the purchase in the absence of her husband. The matter eventually reached the magistrate. The Sessions Judge had noted that this was a woman 'of mature age, perhaps of 25 years, and fitted and intended for domestic service'. Yet because he thought a crime of slave-stealing had been committed, he recommended that Amjad be given two years' imprisonment with labour.

Upon this the Nizamut Adalut, with R. H. Mytton as the Officiating judge, decided that though the selling of 'free-born persons into slavery is an offence by the Mahomedan law' this principle did not apply in this case. Showing a great deal of linguistic knowledge, the judge noted that the woman calls herself the *chokri* of Zukky Chuprasee: 'the usual term in the eastern districts for a female slave'. This being the case, the issue that had to be decided was whether the selling of a slave by anyone not her owner was an offence. According to his interpretation of the concluding section of Act V of 1843, it was so.<sup>148</sup> What Mytton was looking for was fraudulent transfer: he found that no force, misrepresentation or deceit had been resorted to. The offer for sale was 'open', and the woman had made 'no effort to free herself, or object'. To the second sale she 'appeared to be an assenting party'. The man was released. Nothing is said about the female slave.

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<sup>146</sup>Minute of 6 May 1839, British Library, Auckland Minute Books, Add. Mss. 37711, folio 60b.

<sup>147</sup>*Reports of Cases determined by the Nizamut Adalut* (henceforth *RNA*), II, pt. II, 1852, p. 281.

<sup>148</sup>Contemporary barristers like W. Morgan and A. G. Macpherson appeared to have interpreted Act V in an identical fashion in their *The Indian Penal Code (Act XLV of 1860)* (Calcutta, 1861), pp. 319-20.

Since *chokri* did in fact denote the female slave, it is clear that many cases involving such people were decided in the provincial and Nizamat Adalut, not in favour of the release of the girls and women believed to have been stolen, but in favour of one or the other claimant. Thus in the case of *Bindoo Bystumee v. Ram Bagdee, Korebun Ali Sheikh, Puddo Khangy, Shama Khangy*<sup>149</sup> an 8-9 year old slave-girl, described in the court as Kamini Chookree, 'daughter' of Bindoo Bystumee, was believed to have been carried away by the two men and two women prosecuted. As in many previous and subsequent cases, the men and women accused of the theft were neighbours, people whom the child knew well enough to 'come to their house to play'. The accused did plead that they had taken her away 'at her own request', but were disbelieved by the Sessions Judge of 24-Pergunnahs, E. Bentall. As he reported it to the higher court, the grounds for his disbelief were firstly, the fact that Shama and Puddo were 'prostitutes' and the 'abduction of children by such people is by no means uncommon'. Thus he had sentenced each to three years' imprisonment without irons and a range of fines. The higher court upheld the decision. No-one commented on how Bindoo Bystumee had come by this *chokri*.

Though such decisions were superficially about 'daughters' being recovered by 'mothers', it becomes apparent that the issue at the core of these cases was not just a conflict about the re-possession of the slaves, but the 'lawful authority' to transfer the slave-girl. As Mytton had indicated, most judges held that only the owner had 'lawful authority', and not third parties. In *Sonamonee Bewah vs. Purbee Aorut*, when a woman was tried for 'stealing' the *chokri* of her sister, Sonamonee Bewah, and the *futwa* of the Rajshahi sessions court had acquitted her, a second case was made out against her for the charge of 'kidnapping and concealing' and for 'selling' her to Dhunmonee Peshagur, of the Myla bazar in the Kheyta-poorah thana. On this charge, the *futwa* declared her liable to *tazeer*, and the sessions judge accordingly sentenced her to five years' imprisonment with labour, with the note 'Taking away her own sister's child, and selling it to a prostitute for the object of prostitution made her offence in my opinion the more heinous'.<sup>150</sup>

The issue of 'lawful authority' to initiate a transfer of a slave either by purchase, or other conveyancing, and the infringement of such by apparent kin, quite suppressed the question of freedom for such slaves. Thus in 1855, a battle for such authority broke out between two men in *Government and Bhoobun vs. Chundoo*, in which Bhoobun charged the other with having stolen a girl called Misrun, his 'daughter', and of selling her to Mussamut Buneer Begum. The remarks of the officiating sessions judge of Patna, F.Lowth, revealed that seven years before the case began, Bhoobun lost his 4-year old 'child'. Shortly after that, in August 1848, a man was

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<sup>149</sup>RNA, 1852, II, pt. I, p. 837.

<sup>150</sup>RNA, 1840-50, p. 322.

apprehended and sentenced for this, though the child had never been recovered. In 1854 informed by Umeerun, one of the servants of the Begum, that the girl was in the Begum's house at Hajipore in zillah Tirhoot, he went to recover her. The Begum however claimed that the 'girl had been given to her' by Chundoo, the accused: she had been only six months old and her name was Imamun.

By 1855, when she was apparently eleven years old, she had lived in the Begum's house for approximately six years that she recollected. She even told the sessions court that she had never been 'allowed to quit the house'. In the Nizamut Adalut, judges R. Barlow and H.T.Raikes found that this child had been identified by Bhoobun because of a 'burn on the posterior'. Yet, so intent were both courts on establishing the guilt of the men, that neither doubted the validity of returning the girl to the Begum, which is what the higher court ordered.<sup>151</sup>

The same divergence of opinion that had been articulated in administrative discussions resonated in judicial decisions regarding the 'purpose' for which a girl was sold. Thus if a slave was bought for 'marriage' or domestic use, it was not culpable, but if the same slave was bought by a professional (peshagur), the latter could be convicted. In *Government and Musst. Kooroani vs. Adoo, Aradhun, Musst. Gourmonee Peshagur*<sup>152</sup> the sessions judge of Backergunge, C. Steer, found that Suffer Jan, a 'delicate looking thing of 9 years of age' was married to Aradhun, but directly after the ceremony, she was taken to Adoo's house. Adoo then took her to the house of the *nazir* of the Sadr Amin of Dacca, Rujub Ally. She fell ill there after four days, and was removed back to Adoo's house where she stayed nearly two months. At the end of this time, Adoo and Aradhun sold her 'under the name of Mina' to Gourmonee for 18 rupees. At both the thanah and the sessions court they admitted the last transaction, but offered what seemed to be important insights into just how this system worked. Aradhun claimed that Rujub Ally had given him Rs. 15 to get a 'wife', on Adoo's security. Adoo also stated that he had stood security for the Rs. 15 given by the *nazir* to Aradhun 'to procure a female slave', whose sickness caused Rujub Ally to threaten that 'if some better person than Suffer Jan was not soon procured, he would disgrace Adoo's female relatives'. Thus in consultation with Ram Nidhee Sarkar, a witness for the prosecution, Adoo sold her to Gourmonee for the stipulated sum, and returned Rs. 15 to the mother of Rujub Ally, and paid a commission of Rs. 3 to the Sarkar.

Critical to the decision in this case was the silence of the documents on the relationship between Aradhun and Rujub Ally, the role of securities in what was otherwise a 'benign' deed (getting married), the form of the 'marriage', and, most important of all, the complete absolution

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<sup>151</sup>RNA, 1855, V, pt.II, p. 35.

<sup>152</sup>RNA, 1853, III, pt.I, p. 630. Emphasis added.

of Rujub Ally from the procedure of court. Thus even though the sessions judge admitted that 'the marriage of Aradhun was a mere device to obtain a decent girl for Rujub Ally', punishment stayed focussed on those who had already been vulnerable to this man.

Despite evidence of this kind, where becoming one man's 'wife' also meant being the slave of the servant-husband's patron-master, the courts erected a false dichotomy between immoral transfer (prostitution) and moral use (marriage). This lent a peculiar twist to the claims judicially made on behalf of such husbands when various slave-women and girls absconded. However, such distinctions between moral and immoral transfers were further qualified by resort to the ideal of lawful authority for such use or transfer. In sum, the 'lawful authority' of each individual master or mistress, or a surrogate, had to be preserved against all infringement from third or fourth parties. Yet again, from Sarun, the Sessions Judge referred a case in which a seven-year-old Huneefa *Chookree* had apparently been stolen from her 'grandfather's house' by Mudaren, who took her away and kept her for 10-11 days after which she was recovered.<sup>153</sup> Yet Mudaren, who had himself been the servant of the prosecutor, Sheikh Nuzur, pleaded that the sister of his master had taken Rs. 5 from him for allowing him to marry the Chookree. When he reached the house of Immam Buksh at Goruckpore for this purpose, the latter refused to perform the ceremony without Sheikh Nuzur's orders and took the Chookree away. The Sessions Judge could not find that Mudarun 'ever tried to sell her' but he convicted Mudarun on the grounds that 'he carried her off from her friends and that he only could have done so from improper and illegal motives'. The Nizamut Adalut agreed, adding that the 'sister had no power to give the child to him... the child was taken without the consent or knowledge of the guardian'.

The implication that professional (*peshagur*) ex-slaves and concubines appeared to have been the final recipients in the long chain of slave-transfers had evidently aided many sessions judges, and the higher court, in determining the guilt of those who were accused of having 'stolen' and sold the slave-girls. However, such indictments of *peshagur* women were not indictments of prostitution per se, not at least, where the Nizamut Adalut was concerned. Thus in *Government and Musst. Pakeeya alias Solabebee vs. Sheikh Shetabdee, Kurkomaree Peshagur, Assanoolla Chowkeedar and Sheikh Allum*,<sup>154</sup> the Sessions Judge of Dacca had reported that Pakeeya, a ten-year-old girl had been brought from the Rustumpore indigo factory in Faridpur 'by the direction of a person in charge of it (whose name is very indistinctly given)' to the village of Kurrea, where she had been sold to Kurkomaree. The chowkidar and Sheikh Alum had acquired the stamp paper

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<sup>153</sup>RNA, 1854, IV, pt.I, p. 337.

<sup>154</sup>RNA, 1853, III, pt. II, p. 643.



on which the endorsement of a bond for Rs. 21 was signed 'written out as if from the child' (as if they were 'voluntary' bonds against loans of money). The Sessions Judge had convicted them all, but had pointed out that Kurkomaree 'had at one time been evidently the victim of similar villainy'.

Upon this the Judge presiding over the Nizamut Adalut, A. J. M. Mills, noted that the 'child' had not been taken by force or fraud 'out of the legal custody of its parent or guardian'. Indeed, the 'child' had been 'made over to him [Shetabdee] by another to sell for that person's benefit'. The Regulations, both the accused and the judge pointed out, did not specifically provide against prostitution. This kind of perspective was one that was shared by administrators like Prinsep who in 1842 had announced that procuring of girls for prostitution was not a capital offence. 'We are not,' he wrote, 'dealing now with general criminality and offences against morality. We are not legislating to prevent prostitution but to prevent the unfortunate victims being considered and treated as slaves'.<sup>155</sup>

For these reasons, it appears that the authorities in England were mis-informed about the import of the decisions in the Nizamut Adalut. In 1859, Stanley, Secretary of State for India, referred to these decisions above (specially the *Gourmonee Peshagur* decision of 1853) in reprimanding the acquittal of a woman in Monghyr, who had taken on a 'lease of ninety years' some slave girls referred to as 'infants'.<sup>156</sup> Stanley pointed out that B. J. Colvin and A. Sconce, two judges of the appellate court, had ignored 'all the previous decisions of the Sudder Court in cases of a similar kind' in giving 'legal sanction to a slavery of the most revolting and degrading kind'. The Government of India was unbowed. It referred the matter to the Legislative Council for consideration with the imminent Penal Code.

The clauses of the Penal Code of 1861 formally declared the holding and trading in slaves criminal, but continued to punish, under section 361, the taking away of such girls [henceforth called minors] from 'lawful guardianship': the latter, of course, included, the 'master or mistress in whose service the child had been placed'.<sup>157</sup> In this, the Code did not substantially improve upon the model prepared by 1838. Under the offence of kidnapping, for instance, there had been only two sections: the first was kidnapping from the territories of the East India Company, and the second kidnapping from lawful guardianship.<sup>158</sup> Lawful authority, enshrined both in

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<sup>155</sup>Minute recorded by H.T. Prinsep, 18 Jan. 1842, BC F/4/1947/84545. Emphasis added.

<sup>156</sup>Judcl. Despatch to India, no. 23, 14 June 1859, in British Library, House of Lords Sessional Papers, 1860, Second Session, VII.

<sup>157</sup>John D. Mayne, *The Criminal Law of India* (Madras, 1896), p. 638.

<sup>158</sup>See *The Indian Penal Code as Originally framed in 1837* (Reprint, Madras, 1888), p. 63, sections 353-357.

metaphors of kinship, and in the Penal Code, was invoked again and again: the charge of having taken away female slaves continued to be made by masters in the 1880s and the late nineteenth century. For instance, Ramjiban Bagdi complained that his 'daughter' Prasanna had been abducted by a *sardar* from the indigo factory to the Magistrate of Murshidabad in 1885. It transpired in the course of the investigation that Prasanna was an 'orphan', taken to live with the sister of the complainant, and had been married to a man who sent her away because 'she fell ill'. Prasanna herself denied that Ramjiban was her 'lawful guardian'.<sup>159</sup>

However, instead of being claimed under Section 361 of the Penal Code, in the eastern districts of Dacca, Mymensingh, Bakergunj, a large number of women were claimed under Sections 497-98, clubbed together as 'offences against marriage'. The continued language of familialism upon which the courts proceeded reinforced both the languages of the indigenous holder and the predilections of a plantocratic officialdom. For example, C. Tucker, magistrate in Sylhet in the 1830s had tried a case in which Mahomed Zama complained against a burkundass, Gholam Naya, for having taken away his 'daughter'. Gholam Naya stated that the child was a daughter of Ghoree, a slave of his, and that Mahomed Zama had taken her away two years ago. The case was dismissed, but the girl was made over to 'her father, the complainant'.<sup>160</sup> Though individual local officials both in 1830s and in the 1870s were acute enough to realise that terms denoting marriage overlapped where female slaves were concerned, most complaints from such 'husbands' were treated in the same manner as complaints by 'parents'. Thus from Faridpur, two different officers at different times had remarked on the same phenomena. The joint magistrate of Faridpore in 1836 had noted that

Mussulmans provide against the escape of their slaves by marrying them, under the form of nekah, and thus, in the event of their running away, they can claim as wives those whom they could not...legally claim as slaves.<sup>161</sup>

Another official almost forty years later reported that 'in lieu of openly keeping her as a slave', a poor male householder married the purchased female 'through the form of the *nika* marriage with her himself, or if he is comparatively well-off and possesses *golams* marries the poor girl *nika* to one of them'.<sup>162</sup> This particular official hinted at the secondary wifhood of such *nikahi* women within a polygynous household by insisting that these women were not married for their 'personal attractions' but for

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<sup>159</sup>Report on the Native Press, 10 Jan., 17 Jan., 24 Jan., 31 Jan. 1885.

<sup>160</sup>Report of the Law Commissioners (PP), 1841, Appendix II, p.304.

<sup>161</sup>Ibid., p. 293.

<sup>162</sup>D. O. from W. S. Wells to Offg. Inspector-General of Registration, 22 Aug. 1873, BJC, P/254, Nov. 1873, no. 15.

performing duties and labor which would devolve on the favorite wife ... They are required to fetch all the water for the women to bathe with and for cooking and cleaning. They have to sweep up, to wash the clothes, watch the children.<sup>163</sup>

Magistrates were thus aware that at the heart of cases under these sections of the Penal Code, was 'some "nika" druge [sic] tired of her hard work, or possibly hired by better prospects elsewhere, deserts her husband's home'.<sup>164</sup> Despite this individual awareness, institutionally little changed. To cite a laudatory government resolution, 'substantial justice is in many cases done by absconding wives being made over to their husbands even when no case lies against any abductor'.<sup>165</sup>

Where had these wives been brought from? The patterns of circulation between each *zenana* and local *kusbi mahals*, visible in households like that of the Nawabs, and the households of European colonial officials, were touched upon repeatedly by administrative officials. According to Abercrombie, these were 'women whose husbands have taken as *nika* wives out of a state of simple prostitution'.<sup>166</sup> He suggested, for the first time in this period, that a system of marriage registration by qazis be established - it would cost the state nothing, the woman's consent would be proven before a sub-registrar, and the husband's right to prosecute for the return of his absconding 'nika' drudge would follow upon her consent.

The panacea of registration, we have seen, was an old one. In the period after 1860s the force of this particular remedy was to become evident in the manner with which registration of such wives, female children and prostitutes was to be conducted by Act XXII and Act XIV. As a mode of immobilising female slaves and slave-concubines, it surpassed anything that older precolonial regimes might have systemised. In addition, prompted partly by the decision of the High Court acquitting three elderly women of the charge of buying slave-girls during the famine of 1866-67,<sup>167</sup> but labouring under the delusion that most children found in the possession of the dancing-women were 'kidnapped', the Government of India instituted an enquiry into the numbers of girls under 10 years of age who were thus circumstanced.<sup>168</sup> The government clarified that it 'would at most merely provide that such girls already so circumstanced and below

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<sup>163</sup>Ibid.

<sup>164</sup>Abercrombie to Offg. Sec. to GOB, Judcl., 29 May 1872, BJC, P/249, June 1872, no. 64.

<sup>165</sup>Magt. Bakarganj, cited in Annual Crime Report of Dacca Division for 1871, BJC, P/250, Oct. 1872, no. 104.

<sup>166</sup>Abercrombie, 29 May, 1872, P/249, op. cit.

<sup>167</sup>**In re. Tofa Bai, Gunga Bai, Poonee Bai**, L.R. Tottenham, Registrar of High Court of Judicature Fort William to Sec. of GOB, 15 June 1867, BJC, P/433/17, June 1867, nos. 208 - 210.

<sup>168</sup>Sec. to GOI, Home, to Offg. Sec. to GOB, Judcl., 9 April 1872, BJC, P/249, April 1872, nos. 68-9.

the age of ten years, should be registered, without interfering in any way with their custody'. Even with the delimitation of ten years of age imposed by the Government of India as the age above which such 'minors' would not be protected, the Government did not think that the 'possession' of such girls could be prohibited. Arguing that under Sec. 373, 'mere possession with criminal intent' was differentiated from 'obtaining possession with criminal intent', (a rephrasing of the domestic use versus resale argument), one official of the Government of India advised the Government of Bengal against making the former culpable since 'we become involved in many very delicate and complicated questions and contingencies'.<sup>169</sup> By 1875, having considered the matter, the GOI wrote that the necessity of legislating against such possession did not exist.

To urge then that the possession, transfers, and the use, of female slaves between different domestic sites was delegalsed by mid-nineteenth century is indicative of historiographical complacency in the face of a complex and refined mastery. While earlier adjudicatory regimes had tried to settle matters regarding slaves through a finely calibrated set of distinctions, like that of one's own slave/ contracted slave, minor and adult slave and so on, the Company's Regulations obliterated various gradations within slaves. Furthermore, these actually led to the full legalisation of slave-transfers in the name of a *lex loci* that was neither Sharia-derived Law, nor pro-slave. The most conclusive evidence of this is legislation like the Cantonment and Contagious Diseases Acts of the 1860s, which in contravention of the Quranic injunction to holders not to prostitute their slaves for their own benefit, did precisely that. For a colonial government that had vowed to uphold the *sharia*, this legislation offered a glimpse of the contrary process. Furthermore, such registration comprehensively infringed the provisions of the Penal Code the Government itself had contrived, especially those penalising the buying and selling of 'minors'. It is to the reasons why neither the injunctions of a moral order nor the laws of men could be compatible with colonialism in India that we will turn our attention next.

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<sup>169</sup>Sec. to GOI, Home, to Sec. to GOB, Judcl., 4 July, 1873, BJC, P/254, July 1873, file 67, no. 97.

## Chapter IV

### *Fitness and Finance: From Private Holding to Public Taxation*

The non-transparency and incoherence of the language of colonial law with regard to slave-holding and transfers, as the previous chapters have argued, can be understood only in the light of historical conditions. This chapter argues that in Bengal, both civil law and criminal law were conditioned by the Company's own investment in the natalist reproductive aspects of slavery in India. For this reason, its sensitivity to issues of abortion, fertility of women, and disease were also rooted in concerns of a political economy where transfers and conveyances of slave-women and girls had been systemised over a long period. Against this backdrop alone can we attempt to understand the gamut of legislative measures ostensibly geared to battle the spread of syphilis, the Cantonments Act (Act XXII of 1864) and Contagious Diseases Act (Act XIV of 1868). Most historical discussions around these acts place them squarely in the context of a public health policy.<sup>1</sup> Others inscribe these measures within a system of control intimately related to the consolidation of imperialism, and the demarkation of race, class and gender.<sup>2</sup> In attempting a synthesis of these arguments, I hope to offer a partial corrective, both about the issues of health and about the nature of colonial intervention. I argue (a) that management of disease,<sup>3</sup> and fecundity of females generally, was critical to Indian regimes as much as to the East India Company, (b) that the concern of either regime was not with public health but with concerns which (c) brought them into a sordid contest over the revenues and logistics of one section of the market in female slaves within Bengal by the end of the nineteenth century.

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<sup>1</sup>See David Arnold, 'Sexually Transmitted Diseases in Nineteenth and Twentieth Century India', *Genitourin Medicine*, 69, 1993, pp. 3-8; Radhika Ramasubban, 'Imperial Health in British India, 1857-1900' in Roy Macleod and Milton Lewis (eds), *Disease, Medicine, and Empire: Perspectives on Western Medicine and the Experience of European Expansion* (London, 1988), pp. 38-60; Mark Harrison, *Public Health in British India: Anglo-Indian Preventive Medicine 1859-1914* (Cambridge, 1994), pp. 72-76.

<sup>2</sup>Kenneth Ballhatchet, *Race, Sex and Class under the Raj: Imperial Attitudes and Policies and their Critics, 1793-1905* (New Delhi, 1979); Ronald Hyam, *Empire and Sexuality* (Manchester, 1990); Phillippa Levine, 'Prostitution, Contagious Diseases Act and Empire: The Case of British India', *Journal of the History of Sexuality*, 2, 1995, pp. 579-602., Ratnabali Chatterjee, *The Queen's Daughters: Prostitutes as an Outcast Group in Colonial India* (Bergen, 1992), and contributions by Karen Jochelson, Priscilla Pyet, Kerrie Macpherson, Bryan Callahan at Conference on 'Comparative Perspectives on the History of Sexually Transmitted Diseases', Institute of Commonwealth Studies, London, 26-28 April 1996.

<sup>3</sup>For seventeenth century, see John Marshall's references to three herb-based recipes for treatment of the 'French Pox' in *John Marshall in India: Notes and Observations in Bengal 1668-1672* (London, 1927), pp. 333-35. For the eighteenth century, see Syed Ghulam Hussain Khan, *Seir Mutaqherin* (reprint Lahore, 1930), IV, p.60 and note 4, and William Jones's recounting of a treatment suggested by Maulvi Mir Muhammad Husain, in Lord Teignmouth (ed.), *Collected Works of Sir William Jones* (London, 1807), IV, pp. 367-79.

### The Company and Slave-Reproduction

The preponderance of slave-concubinage among the representatives of the Company in the eighteenth century was noticed by many contemporaries.<sup>4</sup> One officer advised cadets going to India to set apart a sum of money approximately between 20 to 40 rupees monthly for this expense, remarking that 'in India, a woman *under the protection* of an European gentleman, is accounted, not only among the natives but even by his countrymen, to be equally sacred, as though she were married to him'.<sup>5</sup>

The vexed and overlapping nature of jural and social status of these women is evidenced by the wills of those who served the Company in India. Much depends on how one reads the language in which these transactions and relationships were represented; terms like 'my girl' and 'my boy' which preface further descriptions like 'who came to me out of the famine', or 'Negro' abound. Thus a lieutenant of the Company's service, Richard Fennell, left a will in 1772 specifying that a sum of money be given to 'Chowdry a little Girl what as been with me from an Infant and been particular useful and Diligent ... [and] Cozella my eldest Girl and took into my House at the Famine ... provided they are with me at my decease'.<sup>6</sup> The association of words like 'liberty' with these names is sometimes the only clue to the status of these 'girls', like the will of Timothy Jefferson, which gave to his 'girl Silvie... hur [her] Liberty, and release hur from being my Slave'.<sup>7</sup> No one document spoke as clearly of these transactions as the will of Claud Martin. Uncomfortable with the definition of slavery as propounded in the Western hemisphere, he described the five young girls in his household,

not as we term slaves, though paid a consideration for, but the sum I paid was a present to the relations, that I might have had a right on them as not to be claimed by anybody...  
...I acquired them every one when they were young and children and took care of them by my acquiring them they have lost their fathers and Relations....<sup>8</sup>

The prevarications in terminology do not disguise the core of such transactions: the extinguishing of all claims of natal kin to these girls and to the boy (sold to him by a Georgian merchant) who

<sup>4</sup>Capt. Philip D. Stanhope, *Genuine Memoirs of Asiaticus*, (London, 1784; reprinted and edited by W. K. Firminger, Calcutta, 1909), p. 34; Anon., *Fifteen Years in India; Sketches of a Soldier's life* (London, 1822), p. 34.

<sup>5</sup>Capt. Thomas Williamson, *The East India Vade Macum or Complete Guide to the Gentlemen Intended for the Civil, Military or Naval Service of the Hon. East India Company* (London, 1810), I, pp. 451-52. Emphasis in original.

<sup>6</sup>Supreme Court Wills, 1774, P/154/56.

<sup>7</sup>Supreme Court Wills, P/154/60, 25 Jan., 1779.

<sup>8</sup>Will of Claud Martin, L/AG/34/29/12, 1800, pp. 121-161.

was renamed James Martin and appears as his heir in subsequent records, and to the eunuchs of the household. The fact that one of these girls, Boulone (subsequently appearing in the English records as Bule Begum), was also described 'as the most chaste virtuous wife' in the same document highlights the metaphors of domesticity employed by many such holders of the time. Such metaphors however did not obscure the mode of her entry into his household. Martin clearly outlined that he

acquired her for the consideration of a sum I paid to one Carriere, a Frenchman, who had acquired her by purchase from a cruel and inhuman father and mother of her; she was at that time an infant of about 9 years of age, in the year 1775....

Among the memoirs of Hickey are found distinct references to two women acquired through similar transfers between Englishmen in India: one called Jamdani had come from the household of Mr. Cherry to Hickey, and another from the Paymaster of the Nizamut

My friend, Bob Pott, now consigned to me from Moorshedabad a very pretty little native girl, whom he recommended for my own private use. Her name was Kiraun. After cohabiting with her a twelvemonth she produced me a young gentleman whom I certainly imagined to be of my own begetting,...Young Mahogany was therefore received and acknowledged as my offspring....<sup>9</sup>

Did these modes of acquisition make the women and 'girls' slaves or were they to be counted as wives? Those officers afflicted by conscience, and issues of English law, did sometimes stipulate that a ritual marriage had taken place, albeit of a private and secret nature.<sup>10</sup> However, this was more often the exception than the norm. Pearse did not make such a claim for the 'female friend Moortee also a native of Hindostan who has lived with me many years in my zenana and bore me two female children.' Others were content to use terms like 'my Housekeeper'<sup>11</sup> for the female concubine.

Part of the problem was discursive, and like other discourses fashioned in the Atlantic colonies where slaves were specifically denied canonical ritual in the Church, carried enormous moral loads. An officer of the Madras native Infantry referred to these as 'unmatrimonial connexions between European officers and native women ... The mistresses are obtained from the Hindu and Mussulmen races, and they are often sold to their masters by their needy relatives'.<sup>12</sup> Yet others, mindful of a theoretical distinction between 'married wife' and 'female slave', referred to these young adults as 'prostitute' when they meant the female slave taken on long or short-term

<sup>9</sup>Alfred Spencer (ed.), *Memoirs of William Hickey* (London, 1925), III, p. 276.

<sup>10</sup>Will of Thomas Deane Pearse, L/AG/34/29/6, pt. III, p. 26, 13 July 1781.

<sup>11</sup>Will of Lt. George Hyde, L/AG/34/29/41, (1827), pt. III, pp. 273-77.

<sup>12</sup>Major H. Bevan, *Thirty Years in India, Or A Soldier's Reminiscences of Native & European Life in the Presidencies from 1808 to 1838* (London, 1839), pp. 18-19.

leases. Thus Edmund Burke, in opening the sixth article of charges against Warren Hastings in 1789 described Munni Begum as a woman 'sold as a slave; her profession a dancer; her occupation a prostitute'.<sup>13</sup> It is particularly significant that many English speakers of the early modern period and later used terms like slave-wives and prostitutes interchangeably.<sup>14</sup> Representative of this was F. J. Shore's comment that 'the women who live with Englishmen are, with few exceptions, common prostitutes by profession, bred to the trade'.<sup>15</sup> Alternately, females bought by, and transferred between individual soldiers and officers, were referred to as 'nikka' wives, especially in cantonments like Dinapore described by one official as 'a favourite haunt for European and half-caste pensioners ... with large families, in straitened circumstances, and possessing... almost Mahomedan ideas of matrimony'.<sup>16</sup> Referring to one such group as 'women of the 109th' at this station, other officials realised that regardless of residential location, this group of women were 'common property'.<sup>17</sup> This interchangeability of nomenclature was itself a significant indicator of the ways in which females bought, transferred on long leases and reared for reproductive purposes were intimately tied up to the making of colonialism.

### **Belonging To and Belonging With: The Army and the Bazaars**

While identities in a slave-based economy are one of the hardest issues to discuss, the problem of distinguishing between metaphors of affinity and jural status were compounded by issues of ethnicity and the semantic limits of terms like 'native' and 'European'. In chapter III, I have touched upon the fact that slave cargoes confiscated by the Company were not sent back to Africa; many of these 'boys' were employed in the marine department as 'European' troops. In 1804, the Directors of the Company proposed to the Governor-General of Bengal that a battalion of slave-

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<sup>13</sup>Cited in E. A. Bond (ed.), *Speeches of the Managers and Counsel in the Trial of Warren Hastings* (London, 1860), II, p. 31.

<sup>14</sup>For an earlier instance of this ellision see Thomas Roe's use of the term 'whore' for the female slave given to him by the Mughal Emperor in W. Foster (ed.), *The Journal of Sir Thomas Roe, 1615-1619* (Oxford, 1926), p. 154 and fn 1, p. 155.

<sup>15</sup>Cited in P. Penner and R. Dale (eds), *The Rebel Bureaucrat - Frederick John Shore* (Delhi, 1983), p. 206. Shore was one of the officials whose anti-slave decrees and pronouncements, as magistrate in Furrukabad and Narbada-Saugor territories, are spelt out in Home Misc. 790, pp. 137-41.

<sup>16</sup>Station Staff Surgeon, Dinapore to Magt. of Patna, 19 Aug. 1876, BMC, P/873, Dec. 1876, file no. 34B (1).

<sup>17</sup>Col. J. Emerson, Cantt. Magt., Dinapore, to Magt. of Patna, 26 Aug. 1876, Enclosure, BMP, P/873, Dec. 1876, nos. 10-11.



soldiers be sent from West Indies to India.<sup>18</sup> In the aftermath of 1857 and the reorganisation of the army in India, identical propositions were floated by important officials and representatives of the Crown.<sup>19</sup> The implication for any studies of 'European' soldiers is that there may not have been a correspondence of colour, ethnicity and geographical area of origin: in other words, the term European may not in all instances be equivalent to free white. Apart from general references to the Irish and Scot preponderance among the soldiery, few military historians of the European forces in India have scrutinised the jural statuses of soldiers. This is important since the earliest official references to the 'European women confined' in the lock hospitals of the Madras presidency<sup>20</sup> refer to the women belonging to the particular regiments, rather than to the ethnicity of the women. A similar point can also be made regarding 'native' women. A Captain of Infantry instructed his executors to bring the 'native Girl now in my keeping' from the Camp at Jaunpore to Calcutta in order to dissuade her 'from continuing in the line of life she is at present in'; the name of the woman was Nancy.<sup>21</sup> That specific women belonged to, and moved with, the regiments is again inferred from the description of a member of the Medical Board of the 'native women with the several divisions of the Army'.<sup>22</sup> The total number of such women at some of the principal military stations in 1822 were as follows<sup>23</sup>

Presidency-114  
Berhampore-364  
Dinapore-236  
Ghazipore-447  
Kanpur-110

It is almost impossible to pinpoint the origins and identities of the women and young girls for various reasons. The nebulous distinction between metaphors of domesticity (wife/concubine/girl) and the realities of jural status (slave, freedwoman), as well as of issues of ethnicity were

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<sup>18</sup>Lord Castlereagh to Marquess Wellesley, 21 Aug. 1804, in S. J. Owen, *A Selection from the Indian Despatches, Memoranda &ca. of the Duke of Wellington* (Oxford, 1880), pp. 449-51, fn. 1.

<sup>19</sup>Questions put by the Duke of Cambridge to Lieutenant-General G. Pollock, Lt. Col. Wyllie, Col. Becher and Sir G. Clerk, Report of Commissioners Appointed to Inquire into the Organisation of the Indian Army (Peel Commission), *PP*, 1859, C. 2515, (London), nos. 150-58, 564 and 838-45.

<sup>20</sup>Extract Mil. Letter from Fort St. George, 12 Feb. 1806, BC F/4/200/4502.

<sup>21</sup>Will of Alexander Dodsworth, 1 Jan. 1796, L/AG/34/29/10, p.3.

<sup>22</sup>Doctor W. Ogilvy to Lt. Col. Casement, Sec. to Govt., Mil. Dept., 23 Apr. 1823, BC F/4/835/22253.

<sup>23</sup>Report on the Lock-Hospitals, Bengal Presidency, *ibid.*

symptomatic of the problem of identity experienced by various women and children. Part of the problem resulted from the patterns of circulation, and constant transfers, within which such women and children were enmeshed. For instance, when soldiers of the Crown's regiments returned to England, as the 66th and 78th did in 1817, 'their' women, brought over from Ceylon (Sri Lanka) to Bengal, were inherited by the soldiers of the 59th stationed at Fort William.<sup>24</sup> On the other hand, some officers also bequeathed very young female slaves and concubines to their friends and executors upon their death by testamentary writing.<sup>25</sup>

As some officers' and officials' wills lead us to infer, most of the women were acquired singly through face-to-face transactions. Like Martin and Hickey, who knew the names of the men from whom they had acquired the young females, Robert Grant also recorded the way in which he had acquired one of his 'girls' from the latter's uncle at Fyzabad, in exchange for a sum of money.<sup>26</sup> However, these encounters were not as accidental or inorganic as individual wills suggest. There were other institutional reasons for the availability of such purchases, and acquisitions, in and around encampments.

Since the late 18th century, the control that was established by the colonels commanding each regiment over the *bazaars* provisioning the troops had been part of the source both of their power and their 'princely incomes'. The Dragoon Guardsman, Stanhope, had noticed how 'each regiment is attended by its own Beazaar ... that pay a small tax to the commanding officer'.<sup>27</sup> The fact that these bazaar emoluments were the perquisites of promotion was evidenced by the 'white mutiny' of 1805-6, ostensibly against slow promotions, but essentially for a share of the increased incomes that were monopolised by the colonels commanding regiments. Of these, the bazaar allowance, a duty levied on sales within the cantonment of spirituous liquors, tobacco and intoxicating drugs, normally yielded to the officer commanding the station an additional income

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<sup>24</sup>Roll of Children of the 66th and 78th Regiment now with the 59th Regiment, in Lt. Col. Mcleod to Mil. Sec. to Govt., 24 Nov. 1817, L/MIL/5/376. Of the twenty children between the ages of 1 and 9, the majority, with their mothers, described variously as 'native of Balle', 'native of Bengal', were inherited by soldiers of the Crown Regiment of 59th Foot.

<sup>25</sup>Robert Grant passed on 'two young girls' to his 'Girl Zeenut', with an additional clause that if either party refused this arrangement, then the 'two girls... to be disposed of at the discretion of my executors', in L/AG/34/29/4, codicil of 15 June 1778. Others hinted at these transfers like that of Major Cornelius Davis, who stipulated that a house be rented for his girl 'and the children who may remain with her on a joint allowance until they are 4 years old as per will of George Elliott', in L/AG/34/29/6, pt. II, p. 40.

<sup>26</sup>Codicil in will of Robert Grant, 8 Oct. 1779, L/AG/34/29/4, p. 2.

<sup>27</sup>Capt. Philip Stanhope, *Genuine Memoirs*, p. 64.

of £5000 per year from the *sudder* bazaar, and of about £1000 a year from the regimental bazaar.<sup>28</sup> The control over the revenues of established markets was however modelled closely on the local models of establishing bazaars, *hats*, and *ganjes* which every big and small hegemon successfully adopted as part of the revenue-generation of the zamindari, taluqdari, subahdari.

Just as every such bazaar contained at least one establishment listed under the revenue head of the *kusbi* mahal (lit. *kasb* or labour that earns a livelihood), each regimental and *sudder* bazaar contained a similar establishment. The bazaars were important because they contained most of the 'camp followers' of each regiment. The system of regimental bazaars, established by authority of the officer commanding a regiment, but supervised by *chaudhuris* and *kotwals*, was fundamental to the provisioning of troops, the transport and labour needs of the regiment as a whole. The regimental bazaar (each unit's local pool of labour and materials), far more than the *sudder* bazar (the main mart in a particular township or cantonment), was an itinerant one, accompanying the particular regiment on its marches. The management of bazaars formed a very significant aspect of the duties of military commandants throughout the early and middle nineteenth century. Regulations III of 1809 and XX of 1810 vested all police powers and authority over different regimental military bazars in the Commanding Officer. All persons gaining a livelihood by supplying troops in cantonments or station military bazaars and all domestic or menial servants were answerable to martial law. However, not all the traders and servants were there of their own volition. Certain labouring groups, including artisans and tradespeople, were often impressed into becoming camp-followers.<sup>29</sup> In the 1840s, when this mode of ensuring a bazaar following came to the notice of the judiciary, and was interdicted by the Medical Board, one Lieutenant-Governor himself reassured certain army officers that the prohibition on coerced labour did not apply to 'the collection of coolies and work people as day labourers'.<sup>30</sup> When the supply of coerced labour in the bazar fell short of the needs of the military officers, civil authorities were instructed to provide convict labour from the prisons for purposes of road-building and conservancy in the cantonments.<sup>31</sup>

Within the broader context of this kind of appropriation of 'domestic' labour by the military authorities was that specific group of women and young girls whose purchase and farming

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<sup>28</sup>Amiya Barat, *The Bengal Native Infantry: Its Organisation and Discipline* (Calcutta, 1962), p. 65, fn. 35 a.

<sup>29</sup>Extract Agra Judcl. Narrative, 11 April 1845 in BC F/4/2216/109827.

<sup>30</sup>Extract Judcl. Narrative of NWP, 7 June 1845, in BC F/4/2216/109854.

<sup>31</sup>Maj. R. Wyllie, Sec. to GOI, Mil., to J.P. Grant, Sec. to GOB, 25 Oct. 1850, Bengal Mil. Cons., 25 Oct. 1850, nos. 141-143, BC F/4/2400/129521. This happened in the case of one of the cantonments in my study, Berhampore, the military station nearest to Murshidabad.

out was organised by indigenous middlemen and women. The semi-fictional account of Sitaram suggested that some female camp followers included young slaves, as in the figure of the Thakurni 'saved from death' in a campaign, and lodged in the regimental bazaar under the supervision of the *chaudhuri*.<sup>32</sup> By 1871, the Royal Commission, which asked Dr. Ross, erstwhile surgeon with the 92nd Highlanders in India, to explain the exact mechanism by which a regiment acquired the women resident in its bazaars, was told

there is a bazaar attached to each regiment, that is a small settlement, comprising so many streets of little mud huts, ... and tradespeople and hawkers of every description are permitted to live in this place, and the kotwal, ... superintends the system, and there is a head woman, under the name of the matranee, who is at the head of the kusbees, or prostitutes, she selects the women; she is told that such and such a regiment is coming into the station, and according to whether the regiment has had a name sent before it or otherwise, she gets a small or a large number of women to come to her.<sup>33</sup>

The short and long term conveyancing of purchased young women had become the backbone of the *chakla* system. At core, it was a system premised upon the procuring of females by commissioning certain indigenous agents with funds provided by the local commander, examining them for 'fitness' in some kind of medical establishment, registering them according to the owners (and users) regiments, and then storing them in specific houses (on one street or square called a *chakla*) or tents, on sites staked out as regimental bazaars, and further away, the sudder bazaar. The management of sudder and regimental bazaar *chaklas* appears to have continued under the aegis of the military authorities during the 1840s and 1850s.<sup>34</sup> By 1892-3, there were three different kinds of *chaklas* - one, that of tents at the rear of an encampment, belonging to a regiment on the march; two, the rows of single storey barracks along the lanes of a bazaar taken over by a regiment; and three, the large single building made up of many small rooms on a piece of land owned by the Government but leased out to a revenue-paying (and rent-collecting) individual.

Rarely admitted in the official evidence was the jural status of the woman brought into the *chakla*. Army officials forbore from referring to the servitude of the younger women, and the

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<sup>32</sup>Lt. Col. Norgate (trans.), *Sitaram: From Sepoy to Subedar, Being the Life and Adventures of a Native Officer of the Bengal Army, Written and Related by Himself* (Lahore, 1873), pp. 47-48. It is suggested that such females might have been transferred further in certain circumstances, for instance, if the Adjutant of the regiment pressed his offer of four hundred rupees for this woman to the sepoy.

<sup>33</sup>Evidence of Dr. Ross, Report of the Royal Commission upon the Administration and Operation of the Contagious Diseases Act, 1871, nos. 15179-15180, in Baptist Missionary Society to Sec. of State for India, May 1873, L/MIL/7/13809; also cited in *The Shield*, 2 Dec., 1871.

<sup>34</sup>See 'Memorandum for the Management of Prostitutes in the Sudder and Regimental Bazaars' issued by the Adjutant-General of Her Majesty's Forces in India, Colonel A.S.H. Mountain, n.d., in Bengal Mil. Cons., 8 Feb. 1850, no.10, BC F/4/2241/112578.

involvement of many soldiers and officers as patrons of the elder women who bought and leased the younger ones. Yet, it can hardly be urged that colonial administrators were unaware of the patterns of holding and circulation of slaves. In discussing the misguided nature of the abolition of hospitals during the 1830s, the Deputy Inspector General of Hospitals explained, 'these females [...] are not free agents being generally kept by or considered the property of interested individuals who gain a livelihood by the sale of their meretricious favors [sic]'.<sup>35</sup>

In the aftermath of Act V of 1843, when government asked local officials for reports on the working of the act, the Commissioner of Tenasserim Provinces had pointed to the rules promulgated by an earlier commissioner in 1836 for the management of slave-based brothels and slave-prostitutes. Urging that all these institutions were fed by the purchase of girls and young women, the Commissioner in 1844 had lamented that a 'profit was derived to Government in direct proportion to the number and extent of the brothels'.<sup>36</sup> In the 1870s, another official tried to explain the failure of the *dhais* (lit. midwives, but used by officials to denote female supervisors) of the *chaklas* of Dinapore cantonment (see Map) to conduct the weekly inspection, in terms of the fact that all three of the *dhais* were themselves '*naickas*, or owners of women. It is not very surprising that they should overlook disease in their own women, or accept bribes from the owners of other women'.<sup>37</sup> Though individual officers were aware of the prior jural status of these 'girls' (made over very young 'to some one willing to feed the little girl... kept in the house as a slave girl, who performs certain menial duties, and eventually leads an immoral life'<sup>38</sup>), the hiring of such girls for 'single acts of intercourse' was clearly condoned by the Government of India in the period between 1872 and 1875.<sup>39</sup> By 1890, another superintendent of a *chakla*, the *dhai* (alternately called the *mahaldarni* in some reports), told the two missionaries, Mrs. Andrew and Bushnell, that she received funds from the Cantonment magistrate according to the type of girl required: 'To buy a very young attractive girl I will be furnished with fifty rupees. There is always plenty of money to get them with'.<sup>40</sup> The transfers of such earning assets between *chaklas*

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<sup>35</sup>Official Memorandum of 10 Dec. 1845, Enclosure in Bengal Mil. Cons., 30 Nov. 1849, no. 94, BC F/4/2379/126518.

<sup>36</sup>Major G. Broadfoot, Commr. Tenasserim, to Sec. to GOB, 15 June 1844, BC F/4/2107/98688.

<sup>37</sup>Annual Report of the Working of the Lock-Hospital, Dinapore for 1877 submitted by M. D. Moriarty, in Report on the Working of Cantonment Lock-Hospitals for 1877 (London, 1878), British Library, Official Publications, I.S.be. 41/7.

<sup>38</sup>Judcl. Commr. of Awadh to Sec. to Chief Commr., 2 June, 1873, IJP, P/708, Jan. 1875, no. 61.

<sup>39</sup>Under Sec. to GOI to Sec. GOB, and other provinces, 17 Jan. 1873, *ibid.*, nos. 58-65.

<sup>40</sup>Elizabeth W. Andrew and Katharine C. Bushnell, *The Queen's Daughter in India* (London, 1899, second edition), p. 35.

in a cantonment also occurred. A transaction by which one *dhai* at the Lancers' *chakla* in Lucknow acquired proprietorship of one such woman was described to the Departmental Committee in 1893.<sup>41</sup> The commission appointed by the Government of India to enquire into (and deny) the veracity of the missionaries' report, made up of Denzil Ibbetson, Surgeon Cleghorn and Maulvi Salimullah, in 1893, reported two depots of women in Punjab who were 'bought up all over the country; ... sent off by train chiefly to Sindh, there to be placed out as wives, concubines, or prostitutes'.<sup>42</sup>

### **Intended Object or Unintended Consequence?**

Historians<sup>43</sup> who romanticise such transactions as the epitome of racial harmony, and even of 'consensual cohabitation', have tended to brush aside the political and social consequences of these transactions and transfers, both for the individual women and children, and for the legal and social aspects of the making of colonialism in India. An exception is the recent study completed by C. J. Hawes<sup>44</sup>, which has mapped the extent of slave-concubinage in the officer and soldier groups of the army in India, and connected the establishment of orphanages for the rearing of the children born of these women with the creation of an under-class of 'poor whites'.

However, there are two inter-related themes that Hawes omits from scrutiny. Despite his acceptance of the fact that many of these women were slaves, the relationship between the sacraments of the Church (baptism and marriage in particular) with status-reckoning and manumission is not dealt with. The complex changes in areas of agnation and filiation are thus overlooked. The second, and methodological, issue is the neglect of the semantic aspects of colonial policy. For instance, what does the term 'orphan' mean? Hawes has overlooked a significant sociological point: the fact that many of such children were only euphemistically orphans, not always genealogically so. In other words, many had their birth mothers living, at the moment that they were made to enter the orphanages. Therefore, the present evidence suggests that

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<sup>41</sup>Minutes of Evidence, Mrs. Elizabeth Andrew, in Report of the Departmental Committee on Indian Cantonments, *PP*, 1893, C.7148, p. 18, nos. 552-558.

<sup>42</sup>Report of the Special Commission appointed to Inquire into the Working of the Cantonment Regulations, *PP*, 1893, C.7217, p.6.

<sup>43</sup>S. C. Hill, *The Life of Claud Martin, Major-General in the Army of the Hon. East India Company* (Calcutta, 1901), p. 131. Similar attitudes characterise Ronald Hyam, *Empire and Sexuality* and P. Levine, 'Prostitution, Contagious Diseases and Empire'. The notion of consensus and 'free will' also underlines the work of Veena Talwar Oldenburg, 'Lifestyle as Resistance: The Courtesans of Lucknow' in D. Haynes and G. Prakash (eds), *Contesting Power: Resistance and Everyday Social Relations in South Asia* (Delhi, 1991), pp. 23-61.

<sup>44</sup>Christopher J. Hawes, 'Eurasians in British India, 1773-1833: The Making of a Reluctant Community', Ph.D. Dissertation, London University, 1993.

the orphanages were more the institutional expressions of individual officers' attempts at wiping out claims of alternate genealogical kin, and less the institutions of charity that they were proclaimed to be.

As in the indigenous households, what mattered most in the case of the British households was the consequence of cohabitation with female slaves and concubines, and not always the forms, ritual and economic, under which such were established. Most often, they were represented as the mothers of children, as in the will of a Lieutenant-Colonel and Chief Engineer of the Company in Bengal, who spoke of his 'Girl Joan, by whom I have a Boy about six months old' to whom he gave 'free liberty'.<sup>45</sup> Officers of the Company recognised that 'offspring is anxiously desired by the mothers, as it establishes a kind of claim to continued protection'.<sup>46</sup> Yet it was precisely a denial of these claims that buttressed the Company's forces in India.

A contemporary described how the children were 'taken from their parents in order to be sent to the foundation... [to]the distress of the mothers on such occasions'<sup>47</sup> with reference to the Orphan Institution. He had also described the Orphanage as 'now so intimately blended with the military establishments in India, that the Company make it a part of their regulations for all persons admitted into their military service to become *ipso facto* subscribers to the orphan fund'.<sup>48</sup> The wills of many British officers of the Company's armies reveal that the institution was based on a consensus among slave-holders upon the continuation of rights over the slave-born. For instance, John Rosewell who had a son born of his 'servant Tomasa Johnson', instructed the men he appointed as 'guardians' of this son that they were to have control over 'all other children I may have hereafter by my servant Tomasa Johnson...I will never have them sent out of their country... I do not mean the Mother to have any longer controul over the Child than you may see fitt'.<sup>49</sup>

Similarly, a Lieutenant of Infantry in the Company's service in 1796, provided for his 'natural daughter' born of his 'girl' Newrun Nissah, to be removed from the genealogical mother, even though the latter was envisaged as alive, since a provision for her was to be made so 'long as she remains unprovided with a master'.<sup>50</sup> Claud Martin's will spoke of Sally, the 'daughter

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<sup>45</sup>Will of James Lillymon, Supreme Court Wills, P/154/60, 4 January, 1775. The phrase 'free liberty' refers to manumission without ransom payments.

<sup>46</sup>Major H. Bevan *Thirty Years in India*, p. 19.

<sup>47</sup>Captain Thomas Williamson, *The East India Vade Macum*, I, p. 463.

<sup>48</sup>Ibid., p. 459.

<sup>49</sup>Will of John Rosewell, 8 May 1779, Supreme Court Wills, P/154/60, pp. 65-67.

<sup>50</sup>Will of Peter Lambert, 2 Oct. 1795, L/AG/34/29/10, (1796-97), p. 3.

bastard of Colonel Harper', of whom Martin required that 'she never be permitted to see her mother who is a woman of loos [sic] conduct ... that Girl Sally... was to have been sent to Mr. Bazet who agreed to let me keep her as he said that Colonel Harper never would acknowledge her'.<sup>51</sup> Terms like 'Orphan Children' were used by another Captain in the Company's army, to describe his three sons 'Ranoya, Johny and Pranchand' born of different mothers, who continuing alive, were to be provided for by the executors of the will.<sup>52</sup> George Ricketts, who had gone from the Upper Orphan School into the uncovenanted service of the East India Company, and his brother John William Ricketts, had been taken from their mother, Bibee Zeenut, who died only in 1824, leaving the ground and house in Collingah to George.<sup>53</sup> By 1824, it was clearly commonplace to stipulate that a son born of a concubine 'be handed over to the Orphan Fund together with the property, and a pension to be granted to the Mother during her life by the Fund to the same amount as usually given to native women who have had children by European officers'.<sup>54</sup> Nor was this materially demolished later, for in 1850, a Captain of the Infantry stipulated that his child, a boy, 'living with his mother Begum Jan in the Orderly Bazar Cawnpore... may be placed in the Military Orphan School Calcutta and it is my particular desire that he be removed from the charge of his mother...'<sup>55</sup>

In the moral universe of slave social formations in the indigenous households studied earlier, the bearing of a child to one's free master was a passport to status, even if of an attenuated kind. Denying the claims of social motherhood of these women upon the products of their sexual labours was a half-way house in the tense dialectic between cultural filiation and economic marginalisation associated with the Company's attitudes towards this growing number of women and children. Many of the slaves and concubines struggled to retain their children with themselves. Most were unsuccessful,<sup>56</sup> but one instance of success was recounted by 'an Armenian' in the pages of a journal in 1819. Describing a very skilled performing artist called Bonnoo Jaun, a correspondent said,

She is the Daughter of a Woman, whose name was Rutton, at the house of Bholoo, who is yet living at Calcutta in Colootolah, and has one of the best

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<sup>51</sup>Will of Claude Martine, L/AG/34/29/12 (1800), pp. 127-161.

<sup>52</sup>Will of Edward Fell, L/AG/34/29/36 (1824), pp. 345-6.

<sup>53</sup>Will of Beeby Zeenut, L/AG/34/29/36, p. 337.

<sup>54</sup>Codicil in will of Thomas Moodie, *ibid*, p. 405.

<sup>55</sup>Will of Captain James Thompson, L/AG/34/29/85, (1850), pp. 177-81.

<sup>56</sup>See Emily Eden's note on the 'native woman' of an English colonel, all of whose children 'she will never see them again' in *Letters from India* (ed. by her niece, London, 1872), I, pp. 324-5.



houses built in the European style. The said Girl, whose Father (as I have heard myself from Bholoo and Rutton) was an English Merchant of Calcutta, was concealed by the Mother from him;...<sup>57</sup>

Juxtaposed against contested claims over children born of such women, these orphanages provided the cutting edge of this contest between indigenous slave-holders and the British army and administration over the fruits of their holdings - the children born of slave mothers, and the uses to which such holdings were put. Most significant of all, the policies from which the contest, and these institutions, sprang were determinedly natalist ones, depending critically on the fecundity and fertility of the slave concubines and servants. This, contrary to assertions of historians of childbirth in India,<sup>58</sup> set the context of the Company's (and later Imperial) interest in female 'health' in India.

For the children, born of concubine mothers but deprived of maternal ancestors and lineages, how far were they assimilated into their paternal lineages? The naming practices that these children were subject to deserve greater scrutiny than they have received, practices that often kept them at the boundaries of their patrilineages. A letter written to Mary Barwell by R.B. (Richard Barwell?) from Calcutta in 1775 clarifies a number of issues. Referring to a 'boy' sent to England under the care of Captain Carr, the letter-writer disclaimed

Whether he is my natural child or not is apocryphal...I understand from my brother James, the boy is educated after a manner by no means suitable to a dependent and servile condition, that he has been introduced to you under my name and as my son ... I never meant he should behold himself in that light, nor me in any other than that of his patron and friend.

The letter insists that the 'boy' 'regard his birth as low', that his training in accounts and penmanship only reinforce in 'his mind that he is an orphan brought up by the hand of charity', and that he be re-baptised with a different surname.<sup>59</sup> Similarly, Major-General William Kirkpatrick, to whom is attributed the idea of the Military Orphan Fund, named his 'natural son' by Doolaury Beeby, Robert Walker, notably not allowing him the surname of Kirkpatrick, which

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<sup>57</sup>Letter from an Armenian, 17 Oct. 1819, in S.Das (ed.), *Selections from Indian Journals: Calcutta Journal* (Calcutta, 1963), I, pp.356-57. Emphasis added.

<sup>58</sup>Dagmar Engels, 'The Politics of Childbirth: British and Bengali Women in Contest, 1890-1930' in P. Robb, A.Powell and K.N.Chaudhuri (eds), *Society and Ideology: Essays in South Asian History* (Delhi, 1993), pp. 222-246. Engels has urged that economic or military engagements cannot explain imperial interest in childbirth; and the latter was part of an 'ideological enterprise' to justify the Raj. The two are not necessarily separate exercises.

<sup>59</sup>See George F. Grand, *The Narrative of the Life of a Gentleman Long Resident in India* (Cape of Good Hope, 1814, reprint Calcutta, 1910), note on p. 283. Emphasis added.

would have socially incorporated him into the patrilineage.<sup>60</sup> Thus the ideology of 'illegitimacy' was fashioned to reproduce the difference between freeborn and slave-born in a systematic manner.

In contrast to methods of filiation, status-reckoning and incorporation in indigenous slave-holding households like those studied in Chapter II, colonial practice as well as colonial law endowed the slave-born with permanent jural marginality, while insisting on their cultural incorporation within religious and educational boundaries. Unlike the predominant ways of reckoning identity and status patrilineally for the children of 'white' European mothers, British fiscal (pension fund and other such) policy in India insisted that 'illegitimate' children were 'to be considered of the same country as their mother'.<sup>61</sup> Where indigenous households put a high premium on the slave-born precisely because of the loyalty or deference generated in the absence of bilateral affiliation, in British colonial officials' reckoning after American independence and even more after the revolution in Haiti, it was the potential disloyalty of such groups that influenced official attitudes.<sup>62</sup> The desire to secure the subordination of such marginal beings (referred to as half-castes) by simultaneously ensuring their immiserisation was evident both in the pronouncements of administrators like Cornwallis, Munro<sup>63</sup> and others, and the strategies of the Upper and Lower Orphan School in Alipore, Calcutta.

### **Differential Functions: Military Orphanages and the Reproduction of Kinlessness and Illegitimacy**

There is some obscurity over the original aims of the Military Orphanages, since the prospectus of the Military Orphan Society of 1783 suggests that the management 'lose no time in making the necessary arrangements for the removal of these orphans to England, to which end they shall as soon as possible form Engagements with proper persons at Home who shall contract to receive

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<sup>60</sup>Will of William Kirkpatrick, L/AG/34/29/36 (1824), p. 202. Between 1799 and 1801, he held the post of private secretary to Gov.-Gen. Wellesley, for which see *List of the Private Secretaries to the Governors-General and Viceroys from 1774 to 1908* (Calcutta, 1908).

<sup>61</sup>Construction no. 806, July 26, 1833, in F. Skipwith, *The Magistrate's Guide* (Calcutta, 1843) p. 22, no. 165.

<sup>62</sup>See Arthur Wellesley's Memorandum on Bengal on the political value of preventing colonisation through settlement, of European officers' and soldiers' 'legitimate' families in India in S. J. Owen, *Selection from the Indian Despatches* (London, 1880), pp. 775-785. For reported laments of public men about the 'present mischief and future danger' presented by the half-caste population, see R. Heber, *Narrative of a Journey Through the Upper provinces of India from Calcutta to Bombay, 1824-25* (London, 1828, second ed.), I, pp. 41-2, and for the association of this 'intermediate' cast with the revolutions of the Spanish Americas and St. Domingo, see Valentia, *Voyages and Travels* (London, 1811), I, p. 197. See also David Arnold, 'White Colonization and Labour in Nineteenth-Century India', *Journal of Commonwealth History*, 11, 2, 1983, pp. 133-158.

<sup>63</sup>See Munro's Minute of Nov. 1825 in the Secret Department, BC F/4/787/21363.

them on their arrival and to Lodge Board, Clothe and Educate them till a certain Age'.<sup>64</sup> It appears from the rules of 1783 that such transplantation of orphans was originally meant to 'top up' the labouring classes of the Industrial Revolution. Art. 24 had provided that the male orphans were to be 'bound apprentices to the business of their choice' or be recommended to the Directors for appointments as cadets in the military service of the Company. The female orphans were to be placed as 'apprentices' to milliners, stay-makers and eventually marry, receiving such dowers as the managers of the fund thought proper to dispense. However, when these rules were submitted to the Court of Directors, the latter modified them considerably, allowing only those who had two parents of European birth to be sent to England, leaving 'the illegitimate and friendless' in India.<sup>65</sup>

Right from this period then, such orphan 'boys' served in the lowest echelons of the army (drummers and fifers, i.e. soldier musicians) - a feature that received official recognition in 1806 when it was actually authorised - and bureaucracy (as clerks, account-keepers) and such 'girls' in turn served as 'domestic' servants in the households of the officers and magistrates of the Company.<sup>66</sup> The route was not always a direct one, from Orphanage to domestic service, but could also meander through marriage with an European soldier. This constituted a gendered differential in the trajectory of reproducing kinlessness. For example, the *ayah* who served Fanny Eden, sister of Governor-General Auckland, was one twenty-year-old 'half caste' brought up at the Military Orphan School, 'married at twelve years old to a man forty years older than herself who came and *chose* her from the school as was then the custom'. Apparently, such unions even though called marriage, did not imply permanence since such wives were left in India when the husbands returned to England.<sup>67</sup> Materially fatherless, the importance of God the Father and a Biblical theology of redemption to such marginal beings could not have been a small one.

Intrinsic to reproducing a genealogically suspended community (half-caste) alongside an economically differentiated (working class and middle class) pool of labour were differentials in

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<sup>64</sup>Cited in 'Memorial of the General Management of the Bengal Military Orphan Society', Bengal Military Letter, 29 July 1823, BC F/4/712/19454.

<sup>65</sup>Officers of the Crown regiments may have been critical of the transporting of these 'mulattoes' to Great Britain, and supported plans for rendering these children 'serviceable to their native colonies'. See Innes Munro *A Narrative of the Military Operations on the Coromandel Coast against the Combined Forces of the French, Dutch and Hyder Ally Cawn* (London, 1789), p. 50.

<sup>66</sup>For a 'little half-cast girl' taken from the Free School as a servant into the house of John Pringle, Judge at Jessore circa 1830, see Lt. Col. D. G. Crawford, 'Letters from Calcutta and Jessore', *BPP*, 4, 1909, pp. 461-485.

<sup>67</sup>Janet Dunbar (ed.), *Tigers, Durbars and Kings: Fanny Eden's Indian Journals, 1837-1838* (London, 1988), p. 161. Italics original. The journal mentions six other 'sisters' of this *ayah* who were all married thus.

the fiscal organisation of the Military Orphan Society. Admission to the Upper Military Orphan School reserved for officers' 'orphans' was not determined by the conditions under which a child was born - concubinage or marriage - but by the amount, and the control, of the property left by its father. Thus 'no child possessed of property is admitted if the total amount of such property is not lodged for the use and benefit of the Society's Funds'.<sup>68</sup> Officers generally took note: a major in the Company's artillery carefully set aside a sum of 8000 Sicca Rupees to be mortgaged in such a way as to earn sufficient interest to pay for the rearing of his two sons (of his concubine) in the School of the Orphan Society, and made the managers of the School the final trustees for the division of the principal between the sons on their reaching adulthood.<sup>69</sup> Another officer, a knighted Lieutenant-General of the Royal army in India left to the Upper Orphan School a bequest of Rupees 20,000 as the 'permanent property thereof'.<sup>70</sup> As a final clause in the regulations of 1783 had tried to insist, 'when an officer dies leaving a natural-born child, or children, and possessed of property not sufficient to preclude such children from the benefits of the Institution, and does not, by will, make such reasonable provision for his children as his circumstances may enable him to do, such children are not entitled to the benefits of the Institution'.<sup>71</sup> Typical in its obscurity, the first half of the clause referred to officers whose fortunes were insufficient for providing an independent livelihood for their 'natural' children : the second half of the clause reiterated that such insufficient funds, alongwith the poorly provided for children, nevertheless had to be placed with the management.

Thus where the slave-born child of an officer was concerned, the orphanages were the instrument of establishing control both over the persons and the meagre inheritances of such children. Investing the bequests of such officers in the Company's bonds and promissory notes in turn gave the Company a very real stake in the continuation of this structure. At the same time, the Company also ensured that it never had to dig into its own coffers for subsidising these 'orphans', by instituting a systematic method of revenue generation. This was to make all potential fathers of such orphans contribute towards the creation of a kind of lottery fund: all commissioned ranks of the army were, after 1 March 1786, *ipso facto* members of the Orphan Fund and had their monthly subscriptions automatically deducted from their pay according to a calibrated scale. A Major subscribed Rs. 9, a Captain subscribed Rs. 6, an Ensign or Cornet had Rs. 3 stopped from

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<sup>68</sup>*Abstract of the More Important Rules and Regulations of the Bengal Military Orphans Society* (Calcutta, reprint 1846), p.12, para. 76.

<sup>69</sup>Will of Cornelius Davies, 25 June 1788, L/AG/34/29/6, pt. II, p. 40.

<sup>70</sup>Will of Sir John Macdonald, L/AG/34/29/36, p. 296.

<sup>71</sup>*Abstract of the More Important Rules*, clause 95, p. 14.

his pay. Initially, Colonels and Lt. Cols. were given the discretion to subscribe, and only after 1805, when the Managers complained that there were 36 Orphans of Officers above the rank of Majors in the Upper School that a compulsory and calibrated scale was established for all cadets.

While the details of the revenue generated by commissioned officers' subscriptions is evident in the records, almost nothing is known of whether any money, and how much, was docked from the pay of the soldier, the rank and file of the army. In sharp contrast to the Company's policy regarding the upper echelons of the British army and officialdom, from 1783 onwards it paid a bounty of 3 rupees per head for each child prior to 1841, (and 2 rupees, 8 annas subsequently). This lends a particularly menacing air to the functioning of the Lower Orphan School, substantially qualifying its aim 'to encourage the European soldier to enter the Marriage State; to relieve him from the heavy burden of rearing a large offspring with very scanty means'.<sup>72</sup> An unsigned memorandum written about 1818-19 revealed the shallowness of the Company's 'charity' where the soldier's half-caste child was concerned. Referring to the poverty, and 'undowered' condition of many of the 'wives' taken from the Lower Orphan School, this memorandum said

The Board probably suppose that the benefits of the Orphan Asylum are confined to Orphans. It is therefore proper to explain that an allowance of three Rupees a month is made for each soldier's child remaining with its father or mother until it is three years old; that it is then transferred,... to the Orphan School where it is educated... If not sent to the Orphan School at 3 years of age the allowance of 3 Rupees a month is withdrawn but this seldom\* happens....

\* Note [sic. orig.] The soldiers are put under stoppages for the amount already paid if they refuse to send their children to the Asylum.<sup>73</sup>

Since few soldiers would have risked stoppages from an already minimal wage, the Company's willingness to pay for the maintenance and rearing of the soldier's slave-born child for the first three years was no charity. Part of a broader and systematic establishment of the Company's own claims upon such children, this encouragement to the 'marriage' of the European soldier in India was an inducement to biologically reproduce servile labour, while socially reproducing its marginality. The multiple deceptions lay in requiring the 'native' and the 'European' women of the soldiers to do this, without attaining social respectability as mothers, in eroding the genealogical

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<sup>72</sup>*Report on the Lower Orphan School, Printed by Order of the General Management (Calcutta, 1850).* This contradicts a notion that has been too readily adopted that soldiers in the army in India were forbidden to marry as a whole. In 1810, Madras adopted a policy of 'attaching' soldiers to native women, and a certain percentage, which fluctuated between 6% and 12% in other Presidencies, were required, or permitted, depending on the point of view, to marry. For official and indirect encouragement to soldiers' marriages with Lower Orphan School girls, for reasons of discipline, see Mil. Sec. to the Commander-in-Chief to Mil. Sec. to Govt., 31 Dec. 1818, L/MIL/5/376, folios 133a-b; also Myna Trustram, *Women of the Regiment: Marriage and the Victorian Army* (Cambridge, 1984), p.39.

<sup>73</sup>Memorandum, unsigned, in L/MIL/5/376, folio 123a.

paternity of the soldier, and in erasing the substance of paternal ancestry where such children were concerned. Thus 'illegitimacy' on one hand, and kinlessness had to be produced and reproduced through a variety of complex manoeuvres which together created the wealth of labour on which the structure of colonial armies and bureaucracies in India rested.

While the Upper Orphan School provided the uncovenanted servants of the East India Company, the clerks and accountants of agency houses and indigo concerns, it was from the Lower Orphan School that the bandsmen of each military corps were recruited. According to a General Order of 11 June 1798, it was determined that 'the allowance for the child in the Lower Orphan House would cease from the day on which each Boy was selected to serve in the Corps of the Army'.<sup>74</sup> Most important of all, it appears that the Lower Orphan School was also meant to establish a monopoly over these jobs, since it was stipulated that 'No Boys are to be received as Drummers and Fifers from the Barracks or from any of the Classes of Natives except in cases where the Orphan School cannot supply such as are applied for'. In 1807, the Court of Directors further clarified that from the Lower Orphan School, boys above the age of nine years would be transferred to the Company's European Regiments, (receiving half-pay and half-*batta* of drummers) with a view to 'forming a depot for the supply of Drummers and Fifers for the Army'.<sup>75</sup> This policy thus helps to relocate the significance of the 'rescue' efforts of the 1830s in the course of which the young male slaves taken off indigenous middlemen were sent off to the Military Orphan School. As for the children produced by the members of the army, between 1814 and 1819, the average number of inmates in the Lower Orphan School was 589, while that for the Upper Orphan School was 145.<sup>76</sup>

This numerical disproportion between soldiers' 'orphans' and officers' 'orphans' in the two schools in the first half of the nineteenth century, helps to explain another stark difference between officers' wills and soldiers' wills. A sample survey of the latter between the period 1825-61 reveals that though very often earnings of prize money, 'off-reckoning' funds, salaries are

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<sup>74</sup>'A Statement showing the Origin of the Several Funds Civil and Military at each of the three Presidencies in India', L/MIL/5/386/(96a), pp. 122-23.

<sup>75</sup>Ibid., p. 126.

<sup>76</sup>Calculated from the 'Statements of Managers to the Governor-General in Council', 1 March 1819, *ibid.*, p.126. The sex ratio is difficult to calculate from these figures. Between 1800-1818, a total of 380 females had been 'married' from the Lower Orphan School alone: of this number 274 were married to non-commissioned officers and privates of the Company's service, 65 to those of the Royal regiments, and 41 to others. See L/MIL/5/376, folio 146 a.

bequeathed to natal kin in the British Isles, and even to wives, seldom is a child mentioned.<sup>77</sup> Was it that the soldier had already lost all claims over any child born to him, or was the soldier of the British army peculiarly infertile? In ordinary situations, the failure of children as heirs may indicate the predominance of homosexuality, ignorance of paternity in the case of heterosexual men, disease-inhibited fertility, or actual loss of rights over children born. Though more informed and sustained research is necessary on all these aspects of the social history of the army in India, the last-mentioned is distinctly suggested by the practices of the military orphanages.

After 1833, when the Directors in England lost the monopoly of appointments in the army and administration, the inducement to breeding soldiers' 'orphans' in India, both within an institutionalised setting and outside it, was enhanced. By swelling the groups of clients controlled by local officers commanding regiments of European soldiers, such informal and formal institutions helped to maintain the power and income of the commanding officers. Encouraging the biological reproduction of soldiers with women upon whom all other affective natal claims had been extinguished was an important part of the building up of such client groups. It promoted the attachment of the soldiers' 'orphans' to the persons of these big men: one of the conversion narratives written by an officer of the Bengal army characterised one such group in Dum Dum cantonment as 'Colonel Powney's "butchas"'.<sup>78</sup> Modelled, it seems, on the system of *chelas* of the princely -zamindari armies, this account describes an 'attached band of young Christian disciples' of an officer of standing in the artillery regiment, and the efforts of Colonel Wheler to gather around him 'the offscourings of that mixed multitude forming a military bazaar': one of which, a ten-year-old boy was taken into battle by the author, and was with the army at Lahore as an adult.<sup>79</sup> Evidently, such 'children of the regiment' included young females also, who returned to serve the regiment as the 'wives' of sergeants and lived in the barracks and bazaars.

However, the re-organisation of the European army in India between 1859 and 1863 meant that such commanding sway over the persons and revenues of an encampment came to be shifted away from long-resident officer corps of the Company's regiments to the hands of officers of the Crown's regiments. Amalgamation with the Queen's Regiments caused the older officers of the Company's European armies in India to lose their seniority, privileges and allowances. At the same time, the cost of recruiting larger numbers of European soldiers entirely in Britain, and

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<sup>77</sup>The sample was taken from L/AG/34/30/4 (1825-35) and L/AG/34/30/7 (1833-61). Of the thirty-six wills studied, only two sergeants' wills mentioned children to whom shares were left. Of the remainder, the proportion of soldiers who left their worldly goods to other soldiers in the same regiment and company was as high as fifty per cent.

<sup>78</sup>Major H. M. Conran, *Autobiography of an Indian Officer* (Inverness, 1870), p. 31.

<sup>79</sup>*Ibid.*, pp. 78-81.

transporting them to India, was made directly dependent on Indian revenues.<sup>80</sup> Officers of the Company's armies protested against these multiple changes, pointing out that soldiers of the line (Crown Regiments) were more expensive because of their greater proneness to disease, from which European soldiers recruited in India (referred to as 'local troops' in the debate) were exempt.<sup>81</sup> The officers of the Company's regiments also claimed that the Eurasian soldier recruited in India was also more economical because when invalided, he settled in India and thus saved the Company the expense of a passage back to England, whereas European soldiers of Royal Regiments only served for short periods and were liable to be transferred, which strained the treasury further.<sup>82</sup> In the minds of both the proponents and the opponents of the reorganisation of the European army, the pre-eminence of costs and savings obscured the extent to which natalism and sexual reproduction by slave-women was taken for granted. This lent particular force to the concern about fertilities, of genital health of soldiers and of 'their' women.

#### **Imperilled Fertilities: Disease and Anxieties**

Kenneth Kiple, in his discussion of the health graph of societies affected by slavery, both in Africa and the Caribbean islands, has suggested that the infertility of female slaves played a significant role in ousting specific slaves from the domestic economy of the West African chiefdoms into the oceanic trade. Given the internal demand for female slaves in West African agriculture, the least indispensable slaves made up the cargoes bound for the New World, which were thus mostly male. Kiple argues that one criterion of dispensability, applicable to the fewer female slaves on the oceanic cargo, was an impaired ability to bear children. The evidence that fertility might have been a variable in selection for the Atlantic slave trade may exist in the fact that females born in West Africa were not, within Caribbean populations, quite so fertile as their West India-born sisters, and according to the West India physicians, had a much higher frequency of female-related health problems.<sup>83</sup>

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<sup>80</sup>Report to Secretary of State for India Regarding Comparative Cost of the Troops of the Line in India and of the European Troops, (*PP*), 1860, 50, no. 330.

<sup>81</sup>Mil. Letter from Governor-General of India, 5 May 1860 in (*PP*), 1862, 38, no. 298. For comparative returns of sickness and mortality among Crown and India soldiers for 1858-1870, see L/MIL/5/671.

<sup>82</sup>For note on recruitment of males of mixed descent, 'provided they were not too dark', into the fighting services, apart from the other wings of the military, see Adjutant General, Brig.Gen. R.C. Stewart to Mil. Sec. to Govt., Fort St. George, 2 Dec. 1875, L/MIL/7/12778/279. For Eurasian regiments raised between 1858 and 1869 in India, see L/MIL/5/673.

<sup>83</sup>Kenneth F. Kiple, *The Caribbean Slave: A Biological History* (Cambridge, 1984), p. 49 and p. 58; for the effects of congenital syphilis and gonorrhoea in inhibiting natalist potential in female populations see *idem* (ed.), *The Cambridge World History of Human Disease* (Cambridge, 1993), pp. 757 and 1028-29.



The suggestion that disease-induced infertility may have affected some slave-women's transfers has recently been corroborated by the new paleo-pathological evidence from the slave cemeteries of the Barbados.<sup>84</sup> Drawing upon other discussions of dentition, which stress that wear and tear, and caries-related loss erase the evidence of this disease in adults older than thirty years, this study of the remains of three young adults or adolescents concludes that those who reached adolescence with congenital syphilis represent a far larger cohort lost before birth or in the first year of life. This may explain both the high infant mortality in this population, as well as the higher levels of infertility of slaves on Barbados, whose failure to produce a self-sustaining slave population, despite the pro-natalist policies of planters, has been called the 'most striking peculiarity of slave plantation societies in the Atlantic'.<sup>85</sup>

Precisely because yaws and syphilis were discussed not as causes of death but as chronic problems by slave-holders in the plantation economies of the Atlantic, plantation infirmaries and 'sick houses' were a necessary part of these slave-economies.<sup>86</sup> However, eighteenth-century plantocratic English fears regarding the viability of slave-populations, and the readiness to believe in the culpability of slave-mothers for the death/destruction of infants is very suggestive for the English assessment of the Indian situation.

William Jones's cryptic pairing of venereal disease with slavery invoked some of the anxiety of holders and users everywhere. It was 'imported,' he wrote, 'from Africa into the West India Islands by the black slaves, who carried with them their resentment and their revenge; but it has been long known in Hindustan....'<sup>87</sup> In the light of this belief that syphilis and slavery were intimately related, it is possible that the Company's early investment in health measures was part of an effort to ensure the 'soundness' of the slaves it held and used, as well as an investment in the ability of such slaves to become a self-perpetuating group. Robert Grant, for instance, wrote

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<sup>84</sup>C. Jacobin, F. Cook *et al.* 'Syphilis and Slavery', *American Journal of Physical Anthropology*, 89, 2, 1992, pp. 145-58.

<sup>85</sup>Richard B. Sheridan, *Doctors and Slaves: A Medical and Demographic History of Slavery in the British West Indies, 1680-1834* (Cambridge, 1985), p. 98.

<sup>86</sup>See Richard H. Shryock, 'Black Hospital Care from the Plantation Era through Post-Reconstruction' in M. F. Rice and W. Jones Jr. (eds), *Public Policy and the Black Hospital: from Slavery to Segregation to Integration* (Westport, 1994), pp. 1-14; W. Fisher, 'Physicians and Slavery in the Antebellum Southern Medical Journal' and Todd L. Savitt, 'Black Health on the Plantation: masters, Slaves and Physicians' in Paul Finkelman (ed.), *Medicine, Nutrition, Demography and Slavery* (New York, 1989), pp. 52-65 and 243-271; Todd L. Savitt, *Medicine and Slavery: The Diseases and Health Care of Blacks in Antebellum Virginia* (Chicago, 1978). In the British West Indies, the private nature of medical care of plantation-slaves, alongside the expenditure of public funds for the care of slave-soldiers and military labourers is remarked on by Richard B. Sheridan, *Doctors and Slaves* (Cambridge, 1985), pp. 268-69.

<sup>87</sup>Teignmouth (ed.), *Collected Works*, IV, p. 368.

of how his 'girl' Zeenut, who had been suffering from a 'cringing disease' when he bought her, subsequently miscarried in her eighth month due to measles and 'a severe fever'.<sup>88</sup> Similarly wills that stipulated provisions for children yet to be born, like that of John Rosewell cited earlier, highlighted the store that was set upon the slave-concubine's continued fecundity, for conception on demand. Certainly, the concern that slave women were more prone to foeticide and infanticide was entertained by many English officers, including the abolitionist Richardson.<sup>89</sup>

Thus colonial official discussions in the nineteenth century around venereal diseases combined two sets of anxieties simultaneously: one about the fiscal costs of slave-holding in the colonies, and another about the physical reproduction of servile labour. On one hand, venereal diseases were widely believed by the Company officials in India to have raised the costs of maintaining an European army: by invaliding men, venereal diseases impeded the fullest utilisation of military manpower for which the Company paid large sums to the Crown, as well as to its own agents in England. These costs did not diminish over time: between the early nineteenth century and the 1870s, the amount paid for each European soldier coming to India rose from 145 rupees to 300 rupees. Seen as a commercial enterprise, the investment in the European soldiers had to be both immediately effective and generate returns in the future. On the other hand, diseased women kept as concubines and servants of the army as a whole, might fail to reproduce the numerical force which undergirded the system.

These anxieties underlay the official pronouncements on syphilis from the end of the eighteenth century till the end of the nineteenth, all of which centred around the genital health of the soldier. It was not that the spirochete of syphilis, *Treponema pallidum*, was selective about the social class of the host in whose body it embedded itself. If the figures of the Lower Orphan School are to be trusted, the genital health of the soldier was critical for purposes other than the cost-effective utilisation of military manpower. It was critical for the generation of that 'manpower' itself. Thus the system of inspection and control that was called the lock-hospital system, set up in the late eighteenth century and formalised at different times (1805 in Madras presidency, in 1816 in Bengal<sup>90</sup>), abolished in 1830s in Bengal and re-instated through Act XXII and Act XIV ensured the genital health of the soldier's women, as well as eventual returns on this investment, both in cash and in the persons of the children born to these women.

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<sup>88</sup>Codicil of 8 Oct. 1779, L/AG/34/29/4. Hickey also recounted the deaths of Jamdani (in childbirth) and of the 'remarkably fair' male child born of her in *Memoirs*, IV, pp. 140-42.

<sup>89</sup>Richardson's main objections to slavery in India were articulated as a belief that slaves, afraid that the sanctity of their marriages would not be preserved by masters, failed to reproduce children, or allowed them to die. See his Minute of 23 March 1808 in BCrJC, P/132/21, 15 March 1816, no. 47.

<sup>90</sup>Code of Regulations for the Medical Dept. of the Army, with effect from 1 Aug. 1816, L/MIL/17/2/449.

### **Establishing Dominance, Extending Boundaries: Act XXII, 1864**

The political significance of the legislation of the 1860s lay in the fact that older measures taken by local military commanders of the Company before the reorganisation of the army were reissued with Imperial sanction. Contrary to the established view of the post-Mutiny phase as one marked by a 'retreat' in colonial policies towards indigenous social-political practices, the cantonments reveal a contrary trend. Both politically and socially, the army's measures in the 1860s resembled a painstaking attempt to carve out little 'spheres of influence', the cantonments, in the image of tiny plantation-estates, or their Indian equivalents, the zamindaris. The cantonments thus represented not retreats but 'repeats' of an older system. Older military efforts to immobilise and control the non-fighting populations of the cantonment bazaar, seen in regulations of 1840s, were reinscribed by civil law as measures of military health in the 1860s. The amalgam of economic and disciplinary imperatives remained, the authority for the renewal of these measures changed from the Company to the Crown.

The regulations of the 1840s had eroded remnants of peculiar practices of English households in India. Particularly in the context of those older servants and concubines who had been allowed to live in houses built and owned by their erstwhile masters of the officer corps, the general orders of 1848 vesting the commanding officers with irrevocable authority over all real estate within the limits of a cantonment was important in the material immiserisation of many. Thus John Horsford, who died as a Colonel in the East India Company's artillery in Bengal and Major-General in the Crown's army, instructed his executors

to suffer and permit ... Saheb Jaun the mother of my children ... during the term of her natural life to inhabit occupy and enjoy all that my Messuage or Dwelling House in which she now resides and also all that the piece or parcel of Land... lying and being at Dum Dum ... containing by estimation Fifty eight Begahs....<sup>91</sup>

Since most such officers created what in legal terms would be called a 'life-interest' in such premises, the government, by operating with theories of escheat, assumed indirect heirship to these houses and lands by the orders of 1848.<sup>92</sup> After 1864, such property would vest with the military authorities in every cantonment.<sup>93</sup>

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<sup>91</sup>L/AG/ 34/29/29, 1817, pp. 445-72.

<sup>92</sup>For government attempts to deny the claims of expatriate Englishmen like a member of the Medical Board, Anthony Dickson, to the house and jewels he had allowed his concubine Beebee Sitamee at Monghyr, see Messrs. Carr Tagore & Company to Sec. to GOB, Judcl., BCrJC, P/142/1, 17 May 1843, nos. 142-3. For many women transferred from hand to hand, and from one regiment to another, bequests by army officers deprived them of even short-term benefits, see Lt. Col. W. Hunter and Rehmud in L/AG/34/29/43, pt. III, pp. 265-75.

<sup>93</sup>For the Horesford estate takeover, see Dy.Sec. to GOI, Mil., to Sec. to GOB, 12 Oct. 1864, BRP, P/66/54, Jan. 1865, nos.27-28.

Furthermore, all non-military servants, including menial servants and other camp-followers of every description were to be considered subject to Acts XI of 1841 and XXVIII of 1841 in the same manner as enlisted soldiers.<sup>94</sup> Furthermore, Regulation XII of 1842 required that before any person living in a military cantonment could recover unpaid wages ('small debts'), and loans, in a Military Court, he/she had to prove that at the time for which the action was being brought, the suitor was registered as a 'Military Bazarman' within the cantonment.<sup>95</sup> Clearly registration of servants and slaves as 'belonging to' the particular bazaar was an old method of silencing and controlling clamorous servants, slave-retainers, and concubines simultaneously.

Nor was registration itself a colonial invention; from the sixteenth and seventeenth centuries, European travellers in Mughal India had been struck by this. Edward Terry, chaplain with Thomas Roe's embassy remarked on the fact that 'harlots... are enlisted and enrolled (as they say) before they can have liberty to keep such an open house....'<sup>96</sup> Manrique suggested that such registration was also part of taxation: describing as large bands of 'whores' those 'who live wholly by singing and dancing' at Jaisalmer, he said, 'besides paying a certain tax to their king for permission to exercise the freedom and privileges of this disgraceful profession, they pay another due for leave to flaunt themselves in glittering and rich attire'.<sup>97</sup> Stavorinus had noticed that in the Mughal province of Bengal, there were licensed places, where numbers of women were kept 'upon payment to the fausdar, or sheriff, of the place, of a certain duty imposed upon the persons of the females who ... are generally assessed at half a rupee, or fifteen stivers, per month'.<sup>98</sup> The *kusbee mahal* collections recorded in stray eighteenth century zamindari accounts were clearly part of these collections, and suggest that both registration and taxation had proceeded apace.

The importance given to registration of slave-holdings by the English colonial administration in the 1860s, however, was to modify the authority from which such registration was to proceed. A Circular Order of the Superintendent of Police in 1841 had noted the 'general practice for bawds, keepers of brothels, and other persons who retain young females... and for

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<sup>94</sup>For provisions of Acts XII and XXVII, 1841, see Henry Carre Tucker, *My Notebook of Rules and Regulations, Collectory and Faujdary* (Calcutta, 1850), pp. 65-66.

<sup>95</sup>Skipwith, *The Magistrate's Guide*, p. 102. Together, these provisions made the recovery of sums by such 'bazarman' extremely difficult, since the court of requests was made up of three military officers and suits could be decided exparte.

<sup>96</sup>Edward Terry, *A Voyage to East India; Wherein Some Things are Taken Notice of* (London, 1777, reprint of 1655 ed.), pp. 284-85.

<sup>97</sup>C.E.Luard (trans.), *Travels of Fray Sebastien Manrique* (Oxford, 1927), II, p. 242.

<sup>98</sup>John Splinter Stavorinus, *Voyages to the East Indies* (trans. Samuel Hull Wilcocke, London, 1798), I, pp. 409-10. One stiver was the equivalent of one English penny.

persons moving *loundis*, or alleged slave girls, from place to place to register at the nearest thana the names of all those whom they purchase, procure or entice to remain with them'.<sup>99</sup> This practice of registering the name of a slave-woman at the *cutcheri* of the local darogah (who may also have been the local potentate) was visible again in the decision of two women, Noor Jan and Juggut Tara, to register the newly recruited *kusbin* Shonaban at the *cutcheri* of the zamindar of Bhanderea.<sup>100</sup>

If this was true for strategies like registration, it was equally true of the medical management of the human resources of these bazaars. In 1861, one army officer asked by the Sanitary Commission his opinion on the venereal diseases said to be preponderant among soldiers, explicitly denied that it was common in India, and then asserted

You know the native women who frequent the bazaars, and you bring them to the hospital when necessary ... A list was always sent to me by my bazaar master every month of the women of that kind found in the bazaar, and, if I found three or four of the men going into hospital suffering from disease, I then had them all examined by the surgeon.<sup>101</sup>

The formal abolition of lock-hospitals in the impecunious 1830s had not meant the abolition of all hospitals: not only did regiments carry on their strength individual medical men, but indigenously funded 'native' dispensaries and hospices had proliferated in the intervening period. Moreover, in contrast to the lock-hospitals in Bengal Presidency which were officially abolished during 1830s, the essentials of the bazaar-structure were reinforced in the 1840s, as seen above. Informal measures were again attested to in 1861, when a contingent of British troops moved into Hazaribagh. Finding the 'Kusbees, Towaiifes or dancing women from Behar or other Zillahs to the westward' already in residence in the civil bazaars (*sudder*) of the town, the medical officers of the regiment sent some of the women from the civil bazaar to 'attend an Hospital which has been established in the Military Bazaar for the cure of such patients'.<sup>102</sup> Reporting this, the Deputy Commissioner of Hazaribagh urged the Commissioner of Chota Nagpore that properly organised lock-hospitals be (re) established at every military station, and that attendance on such hospitals be made incumbent on all similar parties. Such official prayers were partially answered by the Sanitary Commissioners' recommendation to the effect that measures formerly taken be re-

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<sup>99</sup>Cited in F. L. Beaufort, *A Digest of the Criminal Law of the Presidency of Fort William and Guide to all the Criminal Authorities Therein* (Calcutta, 1857), I, p. 413, para 2255.

<sup>100</sup>**Queen vs. Noor Jan and Juggut Tara** in Sutherland Weekly Reporter, XIV, 1870, Criminal Rulings, Appellate, pp. 39-41.

<sup>101</sup>Col. G. Campbell, 1 June 1861, Minutes of Evidence taken before the Commissioners appointed to inquire into the Sanitary State of the Army, (*PP*), 1863, 19, C. 3184, p. 246, nos. 4213-216.

<sup>102</sup>Commr. Hazaribagh to Commr. Chota Nagpore, 10 Nov. 1861, BJC, P/146/44, Nov. 1861, no. 169.

organised in all the Presidencies.<sup>103</sup> In 1864, Act XXII was passed.

Broadly, the purpose of this act was to endow officers of the reorganised 'British' army in India with the powers of magistrates within the limits of a military cantonment. In the larger cantonments, these officers were called the Cantonment Magistrate and Assistant Cantonment Magistrate; in the smaller cantonments, the officers commanding the station were themselves authorised to act as magistrates.<sup>104</sup> Their functions were to execute and promote works of public utility like road-building, register births and deaths, regulate public markets, burial and burning grounds, preserve public wells, tanks and springs of public use, prohibit public nuisances, and under clause 7, Section 19, inspect and control houses of 'ill-fame' for the prevention of venereal disease.

It was under this act, and not under any later legislation, that most of the rules formalising the system were enacted.<sup>105</sup> A Select Committee was appointed, comprising four army officers, two doctors on the staff of the army, and the President of the Sanitary Commission for Bengal, to devise rules under Clause 7, Sec. 19 of Act XXII of 1864. These rules provided for the 'voluntary' registration of all public prostitutes frequented by Europeans, leaving the local Government to declare the women not so frequented to be also amenable to registration.<sup>106</sup> Rule 12 provided that every registered woman should pay a monthly sum to the Lock Hospital Fund, such a sum not exceeding one rupee, as may be determined by the cantonment or district magistrate. In case of non-payment, the amount could be levied by distress and sale of any moveable property of such woman found within the limits of the cantonment. The registration ticket was non-transferable, and was to be taken by the women to the lock-hospital, which they were obliged to attend for regular medical inspection. Neither the precincts of the hospital nor those of the cantonment could be left by a registered woman without the authorisation of the officer in charge. Though the lock-hospitals were not brought into being by any specific rule under this act, it was the Select Committee's belief that such an institution was essential; the only

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<sup>103</sup>Report of Commissioners upon the Sanitary State of the Army in India, (PP), HOC, 1863, 19, C.3184, p.67.

<sup>104</sup>See G. E. Knox, *The Criminal Law of the Bengal Presidency* (Calcutta, 1873), II, pp. 639-61.

<sup>105</sup>This is in contravention of the hitherto unchallenged interpretation of these measures, which have been seen as the result of the Contagious Diseases Act. The latter, Act XIV of 1868, did not apply to the cantonments. See Offg. Sec. to GOI to Sec. to GOB, Medical Dept., 16 Dec. 1875, in BMP, P/873, Dec. 1876, no.18. This letter also testifies to the GOI's disavowal of public health aims for Act XIV, arguing that the miseries of syphilis in Bengal were 'trifling' compared with those caused by fever, dysentery or cholera; only after a better water-supply, better drainage and better conservancy had been secured may venereal diseases and 'special measures designed for their prevention ... receive attention'.

<sup>106</sup>Rules under Clause 7, Sec. 19 of Act XXII, 1864, BJC, P/438/11, July, 1866, no. 43.

requirement was that the hospital be a separate building under separate management.<sup>107</sup> Temporary arrangements, like hiring a 'native' house or a government building, were preferred to incurring expenditure in erecting new buildings.

Overtly nothing in either Act XXII or the Rules of 1866 were obviously tilted against the women within the regimental bazaars and *chaklas* of a cantonment. In the description of 'offensive or obnoxious trades' which the cantonment magistrate was empowered to ban for reasons of health or that of 'public nuisance', there was no mention of prostitution, though butchers' shops, tallow-melting, soap-making, dyeing, brick-making, and suppliers of liquor to European soldiers were all specified. The Select Committee's commentary appeared to indicate that the intention, at least in Rule 7, (Cantonment Committees could prohibit the residence of women in specific parts of the cantonment) if implemented vigorously could bring the women of rival bazaars into the jurisdiction of the regimental bazaars. This was obliquely suggested by the special committee's own explanation. According to the latter, such powers were to prevent 'more than a certain number of women being collected in one quarter'.<sup>108</sup> A comparison with the Adjutant-General's memorandum of the 1850s reveals a similar impetus towards establishing a monopolistic position of a particular bazaar. The latter required that no prostitute was to be registered in more than one bazaar and when once registered she would not be allowed to pass from one bazaar to another.<sup>109</sup> Was this controlling position to apply to the regimental bazaar or to the *sudder* bazaar over which individual regimental commanders of the older Company's armies had had less direct control, as distinct from the regimental bazaar?<sup>110</sup> It would appear that through the 1840s and 1850s, the efforts of the military authorities had been in fact to wrest control over the *sudder* bazaars from the indigenous local authorities, referred to as 'chiefs', and their functionaries (*amlah*).<sup>111</sup> At no

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<sup>107</sup>Committee for framing Rules under Section 19 of Act XXII of 1864 to GOI, Mil. Dept., 14 Aug. 1865, BJC, P/147/12, Dec. 1865, no. 14.

<sup>108</sup>Ibid.

<sup>109</sup>Memorandum in BC F/4/2379/126518.

<sup>110</sup>Typically, in concurring with the rules, the Commander-in Chief, picked on the removal of women to the *sudder* bazaar as indiscreet. He urged that the *sudder* bazaar was often far from the regimental lines, and making women go away from the cantonments would be disastrous. See Quarter Master General to Sec. to GOI, Mil Dept., 29 Sept., 1865, BJC, P/147/12, Dec. 1865, no. 14.

<sup>111</sup>See Report of Major J. Steel to Major of Brigade, 30 Nov. 1846, for military cantonments of Meerut and Agra, upon a plan devised during his six-year stint as Superintendent of Police Calcutta. According to this report, the *sudder* bazaars had to be divested of the control of the 'native Omlahs' who had accumulated 'enormous fortunes' and 'purchased estates' out of the profits of these bazaars, at the same time that overt quarrels with their 'chiefs' was to be avoided by providing an adequate space for the registered followers of corps and bazaars in a separate spot of ground; also letter of Adj.-Gen. of the Army to Sec. to GOI, 9 June 1847, lauding the control of *sudder* bazaars by military magistrates, BC F/4/2241/112578.

time however, was the destruction of the bazaar itself envisaged: 'in the application of this and other rules, the reduction of the number of prostitutes is not to be specially aimed at', as the Special Committee put it in 1866.

To appreciate the significance of this Act, one must look at another section. Section 25 provided that whenever it shall appear necessary for the protection of the health of the troops in any military cantonment, it shall be lawful for the Governor-General of India in Council to extend to any place outside the limits of the cantonment, and in the vicinity of such cantonment, the rules and regulations under clause 7.<sup>112</sup> Thus right from the start, the direction of the revenue-generating efforts of the civil and military authorities were to be directed to establishments which threatened to rival those within the regimental bazaar *chaklas* - to the establishments of the towns within which these cantonments were situated. Nowhere is this more clearly delineated than in the maps drawn up by the respective cantonment magistrates in the course of the discussion regarding the territorial jurisdiction within which the rules framed by the Bengal Government under Act XXII were to be operative.<sup>113</sup> (See Maps I-IVa, Appendix II). Taken together, the maps reveal that an ever-expanding area outside the limits of the cantonments were the focus of military attention. For the cantonment of Berhampore, the territory over which the Act was operable extended till the Gora and Khalasi Bazaar, well beyond the limits of the military station.<sup>114</sup> In Hazaribagh, an imaginary circle 'drawn around the cantonment at a distance of five miles from the cantonment boundary' constituted the jurisdiction of the cantonment magistrate.<sup>115</sup> The cantonment magistrate of Dinapore, Major Emerson, established that the rules under Act XXII would be implemented over four miles from the boundaries of cantonments. For Barrackpore, the limits were initially three miles, then from 1869, five miles around the cantonment, an area that included Serampore, Bydibatty, Chuttra and all villages within two miles of the river Hugli opposite the military station.<sup>116</sup> As for Dum Dum, by 1876, the area covered by the rules of 1864 was twenty-four square miles around the military settlement. One has a choice of inferences:

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<sup>112</sup>Committee to Sec. to GOI, BJC, P/147/12, Dec. 1865, no. 14.

<sup>113</sup>Maps I, II, III and IV are taken from BJC, P/147/3, Sept. 1864, nos. 108-109, P/147/12, Nov. 1865, no. 60. All others are from OIOC, Map Collections.

<sup>114</sup>Memo. from Magt. Berhampore to Commr. Rajshahi Divn., 2 May 1866, BJC, P/438/11, July 1866, no. 38.

<sup>115</sup>Ibid., no. 37.

<sup>116</sup>The territorial extension for Barrackpore was first suggested by R. Menzies, Surgeon of the 6th Brigade, Royal Artillery, in his Report of 1869, enclosed in Magt. 24-Pergunnahs to the Offg. Commr., Presidency Divn., 9 March 1869, BJC, P/433/28, April 1869, no.311. The extension was sanctioned in letter from Rivers Thompson, Sec. to GOI, Home Department, to Sec. to GOB, Judcl., 27 April 1869, *ibid.*, May 1869, no. 101.



either this was an attempt to create a recruiting base for the regimental *chakla* or that it was an attempt to protect a monopsonistic position for the older regimental *chakla* as well as the newly controlled *sudder chakla* vis-a-vis outsiders. Perhaps both aspects were important for specific areas and times.

At Dum Dum, the Station Staff Surgeon noted that of the seventy women registered during 1868, none 'reside within cantonments'.<sup>117</sup> Of the 48 women registered in 1867-8 in Chinsurah, many resided in the French settlement of Chandernagore, and having no property in Chinsurah, made the collection of taxes difficult for the magistrate. The Surgeon at Barrackpore was troubled not just by the women from the other side of the Hugli, but also because the 'very large number of coolywomen at the Moneerampore water-works, within a very short distance of the station'<sup>118</sup> could not be the regular tax-paying group so desired by the Select Committee in 1866. Similar concerns appear to have troubled an official at Dinapore in 1869, who noted that the women caught by the European soldiers were 'not the regular professional prostitutes of the bazaars, all of whom...are under perfect control, but they are for the most part...beggars....'<sup>119</sup>

Just which women were to be registered, and taxed, depended on the pattern of settlement around each cantonment. Thus, cantonments like Chinsurah, and Dinapore, surrounded by largely Eurasian populations, would require strategies different from those used in cantonments surrounded by more heterogenous populations like Barrackpore, Dum Dum or even Fort William. For instance, the magistrate of Hugli, who oversaw the tiny and unfrequented barracks of Chinsurah cantonment, had asked in 1866 that the concubines of wealthy residents of Chinsurah be exempted from registration since they had 'nothing whatever to do with European soldiers', but had been overruled by the Lieutenant-Governor. The rules, he was told, were to apply to all public prostitutes. By 1867, he had had 48 of them registered, and angered the gentlemen 'who have instigated and encouraged resistance' by the women.<sup>120</sup>

Clearly, the interests of a specific class of hegemon had to be weighed against the potential revenues to be earned from charging such women with unlicensed activity. The fines that could be levied upon such women, apart from the monthly sum of 8 annas that each registered woman had to pay, did after all finance the smaller lock-hospitals. As Park himself noted,

The Hospital has so long been self-supporting from the fact that the class of

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<sup>117</sup>Enclosed in Magt., 24 Pergunnahs to Offg. Commr. Presidency Divn., 9 March 1869, BJC, P/433/28, Apr. 1869, no. 311.

<sup>118</sup>Report upon Lock-Hospital at Barrackpore, enclosed, *ibid.*, no. 311.

<sup>119</sup>Cantt. Magt. Dinapore to Magt. Patna, 8 March 1869, BJC, P/433/28, April 1869, no. 319.

<sup>120</sup>Offg. Magt. of Hooghly to the Commr., Burdwan Divn., 10 July 1867, BJC, P/433/18, Sept. 1867, no.13.

prostitutes who have wealthy frequenters could always pay the *maximum* fine of Rupees 50 with ease, and two such fines paid a whole month's establishment and salary bill; ...if the rules are still enforced in respect of this class, there will be no collapse of the finances for some time longer.<sup>121</sup>

In this instance, the government decided to forego the money partly because the cantonment itself was so small: it subsequently ordered the registration only of those 'frequented by Europeans'. This would leave out the 'mistresses of the upper class natives, women who do not consider it necessary or frugal to adhere to one paramour, but who at the same time are not what may be strictly termed public prostitutes'.<sup>122</sup> It was not a concession that was to be repeated. In 1877, when another petition from rentiers and landholders of Baranagore led by Babu Murari Mohun Shil, objected to the extension of the Rules to Areadah near Dum Dum, on the grounds that most of the women registered were those married 'under the rules of *Boistub Gundhurba* and *nika* systems of marriage, and the remainder ...are kept women of many many years, living on the same meal and like husband and wife', (most of whom were tenants of the petitioners) the government would not give up its demands.<sup>123</sup> Though the official reason was that one never knew where the soldiers roamed, the much more probable reason for the reluctance to confine the rules to the cantonment was that doing so would destroy the *raison d'être* of the rules, the simultaneous immobilisation of specific female slaves and concubines, and the generation of revenue.

#### **A Change of Direction or Consolidation of Army Zamindaris?**

Just as the period after 1859 witnessed the effort of the civil arm of the administration to make every resident pay for the protection of his immovable and moveable property by enforcing the payment of chowkidari taxes imposed by Act XX of 1856, Act XXII represented the effort of the army to make slave-women and owners pay for the upkeep of troops and medical establishments. By Act XXXII of 1860, the imposition of duties on income arising from various professions, trades and offices gave imperial sanction to such efforts. For the purposes of taxation, the jural status (slave/manumitted/concubine) of the singers and dancers was suppressed in favour of constituting them as 'professions'. The amount yielded may have been insubstantial, but the attempt itself was noteworthy since it represented attempts to make an existing market in the hire

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<sup>121</sup>Ibid.

<sup>122</sup>Commr. Burdwan Division to Offg. Sec. to GOB, 22 July 1867, *ibid.*, no. 12.

<sup>123</sup>Babu Murari Mohun Shil, Secy. to the Suburban Town Ratepayers' Association to Offg. Secy. to GOB, 2 April 1877, BMP, P/873, Sept. 1877, no. 14. This petition was in response to the extension of boundaries of Act XXII by GOI Notification 22 of 19 February 1877. The petition repeated the complaints in the vernacular press on the registration of concubines of long duration (*bhadra babur rakhito*).

of such women pay a percentage to the state. This was one of the ways in which the Contagious Diseases Acts, by reinventing local hegemony's taxation as public taxation, made 'the slave trade in women an important part of the business of the State'.<sup>124</sup>

Staff Surgeons attached to European regiments were made Superintendents of the Lock-Hospitals in all stations, though the actual medical work may have been relegated to the native doctor, and *dhai* on the establishment. The collective salaries of this establishment were to be met by the Cantonment Fund, under the Supervision of the Commanding Officer of the station.<sup>125</sup> The constituent elements of the Cantonment Fund were the proceeds of the sales of the natural resources of the cantonment, like rights to waterways, grazing rights, the fines raised by means of impounding animals, and of course, the monthly dues paid by the registered women as well as the fines levied upon women convicted of practising 'unlicensed' sexual activity.<sup>126</sup> The larger the medical establishment the greater the drive to generate funds adequate to pay the salaries. Salary levels formulated in 1867 stayed the same till 1890: by and large, the Superintendent of the Lock Hospital received 50 Rupees, the native doctor 20 and the *dhai* 10 rupees per month.

This fiscal imperative driving the engine of registration explained both the quest for greater numbers of women as well as the use of extra-judicial measures. Certainly, the rules framed by the Select Committee testified to the revenue-generation impetus behind these rules: Rule 13 required every registered woman to 'contribute every month to the expense of the lock-hospital, except while she was under treatment'.<sup>127</sup>

The important departures from older registration and revenue-extracting regimens henceforth established by the Bengal Government under rules framed under Act XXII were (1) instead of the slave-mistress initiating registration to ensure her title, it was made the task of police chowkidars employed by Cantonment Committees to search out and register women. For instance, the Draft Rules prepared by the Inspector-General of Police in Bengal for Clause 7 Section 19 urged all policemen to 'discover by personal observation and enquiry the practice of *public* prostitution by persons other than those duly registered' and to report the woman to the military or civil authorities. Such reports were, furthermore, not to be entered into the register of the

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<sup>124</sup>Bushnell and Andrew, *The Queen's Daughters in India*, p. 101.

<sup>125</sup>For a full exposition on the Cantonment Fund as a municipal fund belonging to Government see Memorandum on Draft Rules concerning Cantonment Funds, Mss Eur. F.86/265, Richard Temple Papers.

<sup>126</sup>For estimates of the Cantonment Fund of Berhampore, see P/433/18, Sept. 1867, nos. 98-101 and 105; for estimates of Cantonment Fund of Dum Dum, *ibid*, nos. 126-7. Fort William and Darjeeling had no cantonment fund according to Off. Sec. to GOI, Mil., BFP, P/880, July 1876, no. 55.

<sup>127</sup>Rules under Clause 7, BJC, P/438/11, July 1866, no. 43.

police-station, nor were copies to be retained by the informant.<sup>128</sup> Though government continued to pay lip service to the idea of 'voluntary' registration, in practice, a network of informants in the bazaars acted on behalf of the police. (2) Where other systems required only the mistress to pay a charge on each new recruit, henceforth both the mistress (described as the brothel-keeper in the records) as well as each individual woman was made to pay a monthly sum. According to a set of Supplementary rules passed by the Bengal Government and confirmed by the Governor-General in Council, every keeper of a brothel was to pay a monthly sum of 1 Rupee, was to be furnished with a ticket of registration, and was to take on some of the duties of policing by preventing unregistered women from residing in it.<sup>129</sup> The most significant departure, however, was (3) the payment of eight annas per month by each registered woman.

The earliest evidence of this payment comes from the cantonment of Berhampore,<sup>130</sup> (nearly of the same vintage as Dinapore), regarding whose collections from registered women, there had been an over-estimate.<sup>131</sup> The collections on this head almost singly became a litmus test of the efficiency of local administrators. Thus in 1869, it was noted for Dum Dum that 'the total amount received in monthly payment from registered prostitutes comes to Rupees 74 only. It does not appear that the sums due have been properly or regularly levied'.<sup>132</sup> Similarly, the annual collection at Barrackpore had been only Rs. 168, that from Berhampore a paltry Rupees 15,<sup>133</sup> that of Hazaribagh Rupees 103-11-3 from all sources, the mistresses, the girls, the fines for absenteeism from examinations as well as for unlicensed prostitution. Only Dinapore in the same year could boast of the hefty sum of Rs. 570-6-3: this was made up of two items, the monthly fees on registered women which amounted to Rupees 442-6-3, and the other the sum of fines imposed by the magistrate for not registering, Rupees 128.<sup>134</sup>

Asked to explain the discrepancy between estimates and collections, some magistrates evinced a lack of understanding of the tasks set to them by the authorities. For instance, the reason

<sup>128</sup>Rules for the guidance of Police Officers submitted in letter of Lt. Col. J. R. Pughe, IG of Police to Sec. to GOB, 29 Dec. 1866, BJC, P/433/15, Jan. 1867, no. 100.

<sup>129</sup>Enclosed in Under-Sec. to GOB to the Commrs. of Patna, Bhaugulpore, Rajshahi, Presidency Divn, and Chota Nagpore, 8 March 1867, BJC, P/433/15, March 1867, no. 59. This clause reactivated in the context of Act XIV, applicable to Calcutta, caused much discomfiture to the urban landlords to whom the women paid rents.

<sup>130</sup>Offg. Commr. Rajshahi Divn. to Sec. to GOB, 30 Jan. 1867, BJC, P/433/15, Feb. 1867, no.123.

<sup>131</sup>Commr. Patna Division to Sec. to GOB, 30 March 1867, BJC, P/433/ 16, Apr. 1867, no. 173.

<sup>132</sup>Offg. Commr. Presidency Divn. to Sec. to GOB, 12 April 1869, BJC, P/433/28, April 1869, no. 310.

<sup>133</sup>Annual Return on the Lock- Hospital for 1869, BJC, P/433/28, Apr. 1869, no. 314.

<sup>134</sup>R. P.Jenkins to Sec. to GOB, BJC, P/433/28, April 1869, no. 318.

for the low collections at Dum Dum was the Staff surgeon's belief that the rules required him to drive away all the women, which he was not prepared to do; nor was he willing to raise the tax beyond eight annas per head because he thought the women would leave the station.<sup>135</sup> Berhampore's failure was explained by the Commissioner of Rajshahi thus, '...Strange as it may seem, the prostitutes cannot afford a fee, neither with the extended boundaries can they be compelled... to leave the place and settle elsewhere'.<sup>136</sup> Ideas of fairness sat uneasily with demands of revenue on many individual officials' minds. They asked for the remission of fees payable by the women, but they simultaneously urged that registration be made compulsory. By 1873, the military authorities appear to have paid heed to the danger of demanding fees from the registered women; in a circular order issued by the Quarter Master General of that year, the payment of 'registration fees' was stopped.

However, this did not mean that a revenue-extracting regimen had been dismantled, as that the task of collection was shifted on to indigenous agents. These formed a level of intermediaries, introduced into the system by the encouragement given to urban landowners to construct buildings which could be used to house the regiment's women. Instead of the women paying directly to the cantonment magistrate as hitherto they had done, from 1873, they were required to pay 'house-rent' or 'room-rent' to the owner of the house (often the builder herself/himself) who was then assessed for this house by the Cantonment Committee. From the mid-1870s, such new constructions as were mentioned in the reports, were located at the boundaries of the cantonments concerned. For instance, the three new buildings mentioned for Dinapore were one 'on the west of cantonments' (described as 'occupied' by 1876), the second at Toorhatolee Bazaar, and the third which had been occupied for longer, in the Sudder bazaar 'east of cantonments'. (See Maps I, Ia). By 1878, it was obvious that the 8 annas forsaken as registration fees were being paid as rent by each woman in these newly constructed *chaklas*. Though the cantonment magistrate calculated that 'eight annas a month rent is about the highest sum one woman has to pay' (for accommodation he admitted was 'very poor'), the medical officer of the same place reported that 'now they pay in the sudder and Shahpore *chaklas* Re. 1 a month, and in the Turhatoli 12 annas... In one instance, at least,... a woman's property has been seized by the landlord and sold for rent incurred while she was a patient in hospital'.<sup>137</sup> Ordinarily, Cantonment Committees refused to impose any ceilings on these rents on the grounds that these buildings were all theoretically private property. Their concern for the incomes of the proprietors of these buildings was expressed by the

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<sup>135</sup>Magt., Dum Dum, to Magt. 24 Pergunnahs, 7 June, 1867, BJC, P/433/18, Sept. 1867, no. 56.

<sup>136</sup>Offg. Commr., Rajshahi, to Sec. to GOB, 14 Feb. 1869, BJC, P/433/28, Apr. 1869, no. 313.

<sup>137</sup>Annual Report on the Working of the Lock-Hospital Dinapore for 1877, I.S.be.41/7, British Library, Official Publications.

Dinapore Cantonment Fund Committee in the following words: 'the proprietor of the Shahpore and Turhatoli *chaklas* has actually been a loser by having undertaken to build them at all...the committee does not see its way clearly how interference in the matter of rent can be made'.<sup>138</sup>

The drive to generate levels of revenue adequate to the salaries of the medical establishment required that the number of women on the register be constant and high. In Dinapore, in 1867, 139 women presented themselves at the magistrate's office for registration, but only 116 took their tickets. Of the latter, 31 women returned their tickets, which left 85 women on the register; by February 1867, the number was 87.<sup>139</sup> In Dam Dam, and Barrackpore, however, though the total number of women on the register in 1868 had been 70 and 71 respectively, the average number on the register monthly fluctuated enormously, between 31 and 34 in Dam Dam, and between 46 and 61 in Barrackpore. By 1871, it was said of Barrackpore, that though '295 prostitutes practice their professions in that town...only 22 are entered on the register at Barrackpore'.<sup>140</sup> The suspicion that many registered women were evading payments, or that they were leaving the station after registration, could not but occur to the authorities. Thus the civil surgeon at Hazaribagh noted that there were only 14 women on the register for 1869 because a large number had been taken with the 91st Highlanders on to Kamptee.<sup>141</sup> Describing the number on the register at Chinsurah by 1869 - 11 women - as 'absurd', an official shrugged his invisible shoulders; what better could be expected if your hands were tied to registering only women kept and visited by Europeans? And when another official reported that the average number on the register at Berhampore - 5.4 - was a 'farce' ('and this in a place where prostitutes abound'), the logic of the expanding frontier of Act XXII became doubly manifest.<sup>142</sup> To get adequate numbers on to the register, to compensate for the ones taken away with each regiment as it moved away from a specific cantonment, some means of tapping into the hinterland had to be found.

However, the quest for adequate numbers of women on the register was also driven by a third factor, at least on the part of military authorities. From the 1870s some local officials explicitly demanded that a larger number of women be provided for the soldiers but that they

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<sup>138</sup>Extract Progs. of Dinapore Cantonment Fund Committee assembled on 8 Feb. 1878, *ibid.*.

<sup>139</sup>Commr. Patna Divn. to Sec. to GOB, 30 March 1867, BJC, P/433/16, Apr. 1867, no. 173.

<sup>140</sup>Offg. Magt., 24 Pergunnahs, to Commr. Presidency Division, 29 July 1871, BJC, P/246, Oct. 1871, no.120.

<sup>141</sup>Civil Surgeon Hazaribagh to Dy. Commr., 5 Jan. 1869, BJC, P/433/28, Apr. 1869, no. 324.

<sup>142</sup>Surgeon-Major, Murshidabad, Report on Berhampore lock-hospital for 1869, *ibid.*, no. 314.

should also be 'less repulsive' than they were.<sup>143</sup> Long before the terms were explicitly stated in the Quarter-Master General's Memorandum of June 1886, there is evidence that local officials were interested in maintaining adequate numbers on the register for other reasons. As the apothecary at Darjeeling put it, '... of 6 registered women in the Depot bazar...only three available for three hundred men. This number is quite inadequate...not less than 12 healthy women, being at the rate of 4 per cent, should be maintained'.<sup>144</sup> The demand for adequate numbers of healthy women shaded off imperceptibly into an explicit demand for youthfulness and attractiveness. In Barrackpore, the Surgeon in charge rued the fact that the 'women are for the most part old, there being a very small percentage that could be really called youthful'.<sup>145</sup> On 7 January, 1888, the Cantonment Committee resolved to remove the 'names of those women from the Public Prostitute Register, who by reasons of age, should be considered by the medical officer in charge to be unfit'.<sup>146</sup> Since we hear nothing about the efforts of the authorities to prevent conception, we must wonder whether the emphasis on youth was not also a demand for fecundity. More direct inducements to 'breeding' by these women await the historian of the future.

#### **Extra-Legality in the Service of Law**

Most senior officials, and the Government of Bengal, plumbed for two strategies to be deployed simultaneously: the extension of territorial boundaries within which Act XXII was operative, and the use of judicial proceedings - the 'compulsory measures' - permitted by the rules. 'Voluntary payment of such cesses,' one official had urged, 'will only be made when it is known that default will be really followed by compulsory levy'.<sup>147</sup> Another suggested a 'little pressure' be applied, and less positive proof be required from women known by 'habit and repute' to be prostitutes. The Government of Bengal, instead of striking these suggestions down, upheld and added to them, advising an official that he could compel women to register by means of 'the indirect way of fining them for following the calling of prostitutes when unregistered'.<sup>148</sup> What these suggestions boiled down to was that with every fresh extension of boundaries, more women could be charged

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<sup>143</sup>Progs. of Dinapore Cantonment Committee, 19 Feb. 1877, BMP, P/873, July 1877, no. 4.

<sup>144</sup>Senior Apothecary, Lock Hospital Jellapahar, to Senior Medical Officer Darjeeling, 18 May 1886, L/MIL/7/3903.

<sup>145</sup>Annual Report for the Lock Hospital at Barrackpore for 1887, *ibid.*

<sup>146</sup>Extract of the Progs. of the Cantonment Committee at Barrackpore, in Annual Report for 1887, *ibid.*

<sup>147</sup>Magt., 24 Pergunnahs to Offg. Commr. Presidency Div., 9 March, 1869, BJC, P/433/28, Apr. 1869, no. 311.

<sup>148</sup>Sec. to GOB, Judcl., to Offg. Commr. of Rajshahi Divn., 29 Apr. 1869, *ibid.*, no. 315.

with practising 'unlicensed prostitution'; magistrates were to have that charge upheld by judicial proceedings resulting in a fine, and once convicted, the women would enter their names on the register and pay their monthly dues. One such magistrate reported on how this worked:

Since the introduction of the new cantonment boundaries, 11 persons have recently been fined by me for refusing to register, eight of whom reside within the new boundaries, and three within the old... These last three persons were fined Rs. 20 each...and severe penalties have been inflicted on other persons...<sup>149</sup>

Few official records indicate just how the payment of such fines in turn mired a slave-woman further in a situation of debt-bondage. Speaking of the concubine of a soldier fined for being found with unlicensed liquor in her house, the American women missionaries described this process succinctly decades later. They found that in order to pay the fine, the woman borrowed from one of the *mahaldarnees*, and then had to repay the loan by entering the *chakla* over which the *mahaldarnee* presided.<sup>150</sup>

The judicial proceedings themselves had distinct extra-judicial overtones. As an official testified, he never required 'positive proof of actual acts of prostitution' and he never overstrained the rules of evidence by listening to the 'bazaar witnesses', preferring police evidence alone, to prevent the women's escape. The difficulties experienced at Berhampore in 1869 and repeatedly at the other stations till mid-1870s, were mainly those arising from the Code of Criminal Procedure itself- the standards of judicial proof. What constituted proof of 'public prostitution', and how was such proof to be secured? The magistrate of Berhampore spoke of the 'bazaar witnesses' who invariably 'turn on their [the women's] side when examined in court, although they have previously given information against them when questioned by the police'.<sup>151</sup> Mildly reproachful of such magisterial inhibitions, the Government of Bengal suggested that 'a very little interest and energy on the part of the Magistrate would overcome' the problem. It was, in its opinion, 'extraordinary that... the executive authorities ... are unable to produce proof... that a notorious prostitute is such'.<sup>152</sup> Most local officers employed precisely these 'executive' powers to bring women to book. As the cantonment magistrate of Barrackpore put it,

I have been hunting up women who were reported by the police to be practising

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<sup>149</sup>Jt. Magt., Berhampore, to Magt., Murshidabad, 15 Jan. 1869, *ibid.*, Enclosure II, no. 314. However, it should be noted that by the 1880s, the amounts collected from such fines were dropping in each cantonment: the fines collected from women convicted of 'unlicensed' prostitution and of women convicted for absconding from examination or the lock hospital itself amounted only to Rs. 5 in 1886, and Rs. 19 in 1887 at Dum Dum. See L/MIL/7/3903.

<sup>150</sup>Evidence of Kate Bushnell, 15 Apr. 1893, Report of the Departmental Committee Appointed to Inquire into the Indian Cantonments, (*PP*), 1893, p. 31, nos. 1021-28.

<sup>151</sup>Offg. Magt. to Magt., Murshidabad, 14 Jan. 1869, BJC, P/433/28, Apr. 1869, Enclosure I, no. 314.

<sup>152</sup>Sec. to GOB, Judcl., to Offg. Commr, Rajshahi Divn., 29 Apr. 1869, *ibid.*, no. 315.



prostitution without a license; in each case an enquiry was held by me into the woman's character, and, on conviction, their names were placed upon the register,... Since the beginning of the year I have added thirteen women to the register....<sup>153</sup>

The cantonment magistrate of Dinapore described his own conviction of seven women in 1875 on charges of practising unlicensed prostitution as fallible. 'Indeed', he said, 'not one-half of the cases of practising public prostitution ever decided under the existing law would bear the test of the High Court judges'.<sup>154</sup>

Emerson's snide reference to the High Court was a response to the fact that one such woman had managed, through her patrons, to overthrow her conviction on the charge of unlicensed public prostitution. This woman, described in the evidence as the 'wife' of a railway clerk at Arrah, was fined 50 Rupees for having been an 'unregistered' prostitute, and an order had been passed by Emerson that she be duly registered after her conviction. Yet if the High Court ruled that Anna Bella Chuckerbutty was not a public prostitute, it also gave a definition of what constituted public prostitution.

This definition was disturbing both for its neglect of the structures of hire current at the time, and for the ideology of voluntarism and of 'free wage labourer' that this was based upon. Thus the High Court found 'some evidence that she not unfrequently received visits from soldiers; there is none that any of them ever paid her money, or were ever asked or expected by her to pay her money...'<sup>155</sup> In another identical case the next year, that of the 'wife' of Private Cotterill of the 109th Regiment at Dinapore, the Judge of the Sessions Court of the District went a step further. Asserting that she was the wife of a soldier 'now living', he said 'the presumption that she would require remuneration for her intercourse with other men is not so strong as it would be in the case of a woman living as a single woman without ostensible means of subsistence'.<sup>156</sup> The hire (money) was payable to the owners, and not always to the person hired; nor did money-payments exhaust the whole of the dues payable by the hirer to the person hired, for food, clothing, jewellery and housing could all enter into the transaction. Officials regularly rued the

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<sup>153</sup>Cited in Offg. Magt 24 Pergunnahs to Commr. Presidency Divn., 3 March 1876, BMP, P/873, Aug. 1876, no.16.

<sup>154</sup>Colonel J. Emerson, Cantonment Magistrate of Dinapore, to Magt. of Patna, 26 Aug. 1876, BMP, P/873, Dec. 1876, Enclosure II, nos. 10-11.

<sup>155</sup>**In the matter of Anna Bella Chuckerbutty**, petitioner, High Court of Judicature at Fort William, Crim. Jurisdiction, 30 June 1876, BMP, P/873, Dec. 1876, no. 4.

<sup>156</sup>Cited in Cantonment Magt. Dinapore to Magt of Patna, 22 Feb. 1877, BMP, P/873, July 1877, no.4. It appears that the woman Cotterill called as her witness the soldier with whom she had been accused of fornication. Corporal Allen deposed that no 'actual intercourse' occurred and 'consequently no remuneration was paid to her'.

difficulty of 'proving the payment of money' to a woman they wished to register: they rarely looked beyond the woman caught in their net. Furthermore, the presumption that the 'husband' of such a woman could not profit from the hire of his 'woman' contradicted much of the local evidence.

It would appear that magistrates like Emerson, by ignoring such superficial definitions as set down by the higher courts, were more conversant with the local economies of hire of such women and girls. If this is plausible, then their testimony to the wide range of pre-judicial and extra-judicial measures used to establish and fix the identities of the women appears even more significant. For by August 1876, the Cantonment Committee at Dinapore had authorised investigations by the police of every 'pensioner or resident female in the Dinapore bazaar'. Needless to argue, such 'pensioners' were the concubines, slaves and servants (described by officers as the 'ayahs and metranees about the families of European soldiers in barracks'<sup>157</sup>) of the camp. But throwing the net wider to catch these women depended not on legal proof of a 'profession', but on the state of their bodies. For like Emerson, most local magistrates were content to use the marks of her body as proof against a woman: this was where medicine became a forensic tool in the service of slave-taxing regimes. Despite the fact that the Select Committee of 1865 had thought that 'registration ought always to precede, and not to follow, medical examination' it had also decreed that 'knowledge that a woman is suffering from venereal disease is evidently an additional reason for registering her as a prostitute, and for subjecting her to compulsory treatment'.<sup>158</sup> Yet by 1876, the intensification of the registration drive at Dinapore led to instructions like the following:

3. European women found diseased outside cantonments are to be confined in the lock-hospital and not sent out of the bazaar and cantonments...
6. All beggars and jungle prostitutes are to be apprehended, and if found diseased, shut up in the lock-hospital.<sup>159</sup>

### **By Our Sores Shall You Know Us: the Functions of Lock-Hospitals**

The fullest exposition of the penal role of the medical establishment attached to the army was provided by Emerson. Speaking of the two 'Roses' who came from Patna to buy shoes at Dinapore, and ran into the barracks to escape molestation by some soldiers, Emerson spoke of

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<sup>157</sup>Progs. of the Lock Hospital Committee at Dinapore, 28 Feb. 1876, Enclosure in P/873, Aug.1876, nos.37-38.

<sup>158</sup>Committee for framing Rules under Section 19 to GOI, Mil. Dept., 14 Aug. 1865, Enclosure in BJC, P/147/12, Dec. 1865, no. 14.

<sup>159</sup>Offg. Commr. Patna Divn. to Magt. of Patna, 11 Aug. 1876, BMP, P/873, Dec. 1876, Enclosure in progs. 10-11.

having persuaded them to undergo a medical examination; being found diseased, 'they have been detained for treatment, legally or not, I will not venture to say, in the lock hospital'.<sup>160</sup> Another woman, the concubine of a sepoy, came from Fyzabad to Dinapore: there was no proof of public prostitution but she too was 'examined by the medical officer, found diseased, and detained in the lock-hospital for treatment'. Most serious of all, the medical officer, Dr. Jameson, who had a private practice alongside his official duties at the lock-hospital, reported a woman, apparently the 'wife' of a soldier called Shipley, whom he had seen in his private capacity and diagnosed as a case of 'venereal of recent date'.<sup>161</sup> Since the state of a woman's genitals so clearly qualified her for subjection to a specific labour regime, and her insertion into a specific mechanism of revenue-extraction, it was only logical that the hospitals played so important a role in the making and upholding of this complex.

Such hospitals were the maypoles around which the different administrative and military agendas danced in ever changing patterns. Called upon to function as clearing houses, certifying the 'soundness' of the female slave *kusbins* for service to European patrons, they also duplicated as prison-houses where the same slaves atoned for the injustices of others. These were two separate functions which merged into each other. As at Barrackpore, a woman convicted of unlicensed 'public prostitution' was confined, at least for a night, first, in the hospital till the medical officer in charge could examine her.<sup>162</sup> Then, after her registration and her location in the *chakla*, she was obliged to attend medical examination twice a month (till the mid-1870s, after which till about 1886, they were conducted once every week). If found 'fit', the date of the examination would be stamped on the ticket; if not, she would be entered as a patient. And that was not all: the day after the examination, a roll of names of women on the register, who had failed to come for the examination was sent to the police, from where magisterial proceedings (for breach of lock-hospital rules) were begun.

Conditions within the hospitals were hardly salubrious, if one reads between the lines of dry-as-dust reports. Part of the explanation may have been the fact that the construction of new buildings for lock hospitals had not been authorised in 1866; existing buildings were to be hired or appropriated according to local availability till 1890s. Thus the building that the lock hospital moved to in Chinsurah was rented from Babu Durga Churn Law for 15 Rupees per month. In Dinapore, the lock-hospital in the 1860s and 70s was a row of 'enclosed out-houses' attached to the local dispensary. This implied that few of the conditions of ventilation, space between beds,

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<sup>160</sup>Ibid.

<sup>161</sup>Ibid.

<sup>162</sup>Offg. Magt., 24 Pergunnahs, to Commr. Presidency Divn., 3 May 1876, Enclosed in BMP, P/873, Aug. 1876, nos. 18-19.

part of the sanitary ethos of the nineteenth century, were to be met with in these buildings. For instance, the building used as a lock-hospital in Barrackpore was situated in the *sudder bazaar*; it was not only 'damp and badly lit, it also had 'only one small room, incapable of holding more than six patients'.<sup>163</sup> In 1873, the same hospital was characterised as 'prison-like' by another official.<sup>164</sup> But it is the staccato description of the lock-hospital at Darjeeling that provides a dark-humoured insight :

- I Building - in good repair. A verandah is much needed to prevent the rain beating in, which would greatly add to the comfort of the sick under treatment.
- II Accommodation - Ample room for four sick...
- III Ablution - There is no arrangement for this purpose...
- IV Latrine - construction good: dry earth system.
- V Conservancy - There is no sewage...
- VII Diet - Food supplied to the sick in accordance with scale viz. rice 10 chittacks, dhal 2 chittacks, mixed vegetables...cooked by themselves.
- VIII Bedding - Consists of condemned mattresses, pillows and blankets and obtained from the Commissariat Department.
- IX Clothing - Patients used their own.<sup>165</sup>

Despite these conditions, the hospitals would still have served their overt purpose, if we could conclusively prove that they cured diseases brought in by the women, or that they effectively prevented the spread of diseases among the male soldiery. For this we need data on the number of women found diseased at first examination and number of women found diseased at regular examination. This kind of data was not collected for the cantonments. In any case, any answer we might attempt is heavily dependent on the reliance one places on the official statistics, which appeared to have been intricately linked with faulty pathologies, and faulty counting. For instance, in 1868, in Berhampore, of a total of 10 registered *kusbins*, there had been 5 admissions for gonorrhoea, 19 for primary syphilis, 1 for secondary syphilis. As evident from this count, the number of admissions in hospital exceeded the number on the register. The inference clearly throws much doubt on the returns of disease: the statistics did not distinguish between first admission and re-admission for any of the diseases. Most medical officers pointed this out in notes accompanying the returns; the Surgeon Major at Berhampore wrote for the 1869 report 'no sooner were they discharged cured from the Lock Hospital, than they got freshly infected, and in a few days returned for treatment'.<sup>166</sup> It was a tacit admission that venereal diseases were not coming

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<sup>163</sup>Report on the Lock Hospital at Barrackpore, in BJC, P/433/28, April 1869, Enclosure in no. 311.

<sup>164</sup>Offg. Magt. 24 Pergunnahs to Commr. Presidency Divn., 5 May 1873, BMP, P/873, Aug. 1876, no. 18.

<sup>165</sup>Report on the lock-hospital at Darjeeling for 1888, L/MIL/7/13903.

<sup>166</sup>Report on the Lock Hospital for Berhampore for 1869, BJC, P/433/28, April 1869, Enclosed in no. 314.

from the women to the soldiers but from the soldiers to the women; it was also a tacit admission of the temporising nature of medical aid given to the women. But as for working out the frequency of the return of each woman to hospital, each set of calculations is flawed by our ignorance of whether an admission for primary syphilis returned as an admission for some other disease or not. Faced with this dilemma, one has but to fall back on the officers' calculations of frequency of return to hospital. For Dinapore, for instance, one calculation showed that in 1875, there were 92 women on the register but 219 admissions into the lock hospital i.e. each woman was more than twice diseased.<sup>167</sup> Nevertheless, the high admission figures of women indicate only the failure of medicine in the face of constant re-infection. As the surgeon of Barrackpore commented, 'it is the same women who are constantly being taken into hospital'.<sup>168</sup>

The value of the returns of disease was administrative - they provided a gauge by which senior officials could measure the competence or obedience of junior officers. Finally, they were the fig-leaf covering what was an attempt first to tax slaves' earnings, and then to keep up the supply. The residual value of the statistics for the historian of slave health comes from a comparison of the diseases listed over time. By 1880s, a much wider range of diseases - albeit still focused around reproductive organs - began to emerge in the statistics. If these later figures are used as a guide, then other diseases like leucorrhoea, ulcers of the uterus and labia, and gonorrhoea, non-infectious diseases like dyspepsia, a digestive tract ailment, chronic fevers, and even cholera can be found to have expanded considerably among the slave-women servicing the armies. Thus as far as the health - not the 'soundness' - of the women was concerned, the picture that emerges by the end of the nineteenth century is no better than at the beginning. If one adds the travails of compulsory child-bearing to that of compulsory sexual labour, in the conditions of constant infection, malnutrition and general deprivation, the picture may indeed appear a shade worse.

### **Calcutta and Act XIV of 1868**

Where Calcutta was concerned, these measures had even less to do with public health or the health of the army, and much more to do with broader fiscal and extractive drives of a revamped administrative machinery. Almost all the military records we have of the early and mid-nineteenth century indicate that Fort William was the only location of European troops in the town of Calcutta, over which Act XIV of 1868 was to be administered by the civil authorities - the police. Yet within the boundaries of the Fort, the Commissioner of Police of Calcutta had no jurisdiction;

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<sup>167</sup>Offg. Commr. of Patna Division to Sec. to GOB, 7 Sept. 1876, BMP, P/873, Dec. 1876, no. 10.

<sup>168</sup>Report on the Lock-Hospital at Barrackpore for the Quarter ending 30 September 1875, Enclosure in P/873, Aug. 1876, nos.11-12.

nor was the Cantonment Act in operation here.<sup>169</sup> What then was the logic of Act XIV? Once again, a close scrutiny of numerical and territorial aspects of the working of the Act reveals a picture different from the one suggested by official pronouncements.

Act XIV came into force in April 1869. The mean annual number of women registered during the period 1870-79 was 7374. These figures seem astonishing when compared to the average strength of European troops in garrison during this period, which varied between 832 and 906. The further breakdown of the figures into areas of the city against which the women were listed indicates the direction of this measure. For all the registered women did not come from the region around the Fort. An official notification demarcated the parts of the town and suburbs in which women visited by soldiers : they resided mainly the southern part of Section H (Colootollah), and Sections J (Bowbazar), M (Fenwick Bazaar or Esplanade area), N (Taltollah) and in what counted as the Suburbs, Watgunge and a small part of Bhowanipore.<sup>170</sup> (See Map V). Yet if one looks at the ward-by-ward breakdown of the numbers of women and girls regularly examined in Calcutta between 1870 and 1877, the highest concentration appeared to have been in wards of the city where European soldiers did not go i.e. Sections E (Jorabagan) and F (Jorasanko). Even the Commissioner of Police admitted that these were 'parts of the native town chiefly frequented by women of the better class' and not by European soldiers.<sup>171</sup> By 1881, of a total of 5647 women registered, the breakdown according to the relevant sections of the town are compared below:<sup>172</sup>

SECTION	NUMBER OF WOMEN REGISTERED
E	922
F	626
H	482
J	418
M	457
N	204

Jorasanko (F) and Jorabagan (E) were areas particularly associated with the residences and economic powers of the indigenous rentier groups operating by this period like an aristocracy. The households of the Tagores, the Malliks, the Seals, the Debs were predominantly located in these areas. The Calcutta Housing Assessments between 1857 and 1861 had indicated that these families

<sup>169</sup>Surgeon-General, Indian Medical Dept. to Sec. to GOB, 16 May 1877, BMP, P/873, July 1877, no. 21.

<sup>170</sup>Sec. to GOB, Medical and Municipal, to Sec. to GOI, Home, 30 Aug. 1881, Appendix, 'Report of the Committee Appointed to Examine the Workings of the Contagious Diseases Acts (East India)', (PP) 1883, 50, no. 200, p.600.

<sup>171</sup>Stuart Hogg to Sec. to GOB, Judcl., 25 March 1876, BMP, P/873, Apr. 1876, no. 12.

<sup>172</sup>Appendix, 'Report of 1883', p. 579.

owned large numbers of the houses, offices, shops, warehouses, mills and bazaars.<sup>173</sup> Indirect testimony exists that many of the groups of entertainers referred to as *baiji* were tenants of these families. For instance, in the ledger books of Harinath Nandi of the Kassimbazar family, there is an entry against the land owned in Bahubazar (alternately Bowbazar) in Calcutta, which yielded an income of Rs. 1022-8-0 in 1820-21. Part of this income was made up of rents paid by several dancing girls, described by the biographer as 'of mixed and uncertain birth who settled here from Lucknow and other places in Upper India'.<sup>174</sup> Under names such as Bibi Neki, Bibi Roseira, Bibi Jana, Bibi Pani, these women appeared to have paid between rupees 2 or 3 per month. The inventories of the estates of some of the males of the rentier groups in Calcutta reveal that house rent may have been only a fraction of their dues and payments. For instance, one of the concubines of Raja Jadubindro Krishna (of the Shovabazar Deb household) called Catherine alias Mani Bibi received both a monthly maintenance from the deceased's estate as well as owed a debt to it of Rs. 4210 by 1853.<sup>175</sup> Whether rent, or repayment of debt, or a percentage of earnings, the payment of large and small sums by women listed as *Raur* and *Bewah* had become almost a permanent feature of wealth-making regimens of the period.<sup>176</sup> Particularly in the context of the conversion of monetary income into real estate in the city, the wills of many of these women themselves revealed the intricate links between these hegemon's households and the need to maintain control through 'legal' forms<sup>177</sup> (see Section I, Appendix III). Thus many of these

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<sup>173</sup>John McGuire, *The Making of a Colonial Mind: A Quantitative Study of the Bhadrakol in Calcutta, 1857-1885* (Canberra, 1983), p.17. According to this study, by 1885, this rentier aristocracy owned all but two of the four European and 27 native bazaars in Calcutta. One of the European bazaars under consideration, Hogg's market (the present New Market), was in fact begun in the early 1850s as a 'public market'.

<sup>174</sup>S. C. Nandi, *History of the Cossimbazar Raj in the Nineteenth Century* (Calcutta, 1986), p. 93.

<sup>175</sup>Inventory of Estate of Maharaja Jadubindro Krishno Bahadur, L/AG/34/27/151, pt. I, p. 122. A sum of Rs. 4000 was given as a promissory note bearing 8% interest, and another sum of Rs. 210 was listed as a simple loan account. The will of Jadubindro Krishno had described Catherine as 'my kept woman', allowed her to reside in one of his houses, and sanctioned a monthly maintenance of Rupees 50 'provided she lives alone and is not kept by any other person', vide L/AG/34/29/85, pp. 17-22. This kind of conditional grant of maintenance sums was fairly typical of contemporary English wills also. Other wills also bespoke sums of money to named 'Raur's', like the will of Radhamadhob Laha, also of Calcutta, stipulating the payment of Rupees 250 to Luchmun Raur, along with the right to collect rents from other tenants in the building owned by the testator, vide L/AG/34/29/62, (1840), pt. III, pp. 35-42.

<sup>176</sup>From the estate of Moheshchund Saffoye, for 1870, under the column of cash received on account of outstanding dues are receipts from Mongolo Raur (1-8-0), Mohinee Raur(1-8-0), Netticolly Raur(8-0-0), Kauminey Raur(11-0-0), Motomohinee Raur(1-8-0), L/AG/34/27/177, pt. II, p. 75. 'Raur' was the vernacular colloquial term for a female prostitute, though lexicographers persistently translated it as widow.

<sup>177</sup>It is possible that many of these wills were directed by holders and patrons of these women, who were responding to Regulations XXXVI of 1793, XX of 1812, IV of 1824, XXX of 1838, Act XIX of 1843 and Act IV of 1845 all of which required that mortgage, gift, or sale of real estate, alongside wills and

women's testaments were made out to appear as though a return was made for huge sums of money borrowed from their patrons, masters and mistresses. Invariably, the principal segment of the inheritance from such a woman was real estate, either a two-storied, brick-built house, or a godown, along with other debt-bonded relationships which some of the elderly among them also controlled. In the 1850s, with the prices of real estate rising sharply in the metropolis, the power necessary to extract such sums from these kinds of tenants and dependants became even more important to the rentier families than hitherto.<sup>178</sup> The very real tussle over the assessments for tax of the houses built by such 'big men', and for ground-rent collected by them in Calcutta, provided the context within which Act XIV was to be implemented.<sup>179</sup>

The act squarely impinged on this complex of metaphoric kinship and revenue-generation, even though initial official prevarications disclaimed such an obvious intention. A Circular Order of 1869 commented on the diversity of practice regarding the registration of 'brothel-keepers'.<sup>180</sup> Urging that it was a 'great mistake' to register the owner of a house in which prostitutes reside, as a brothel-keeper, the Superintendent of Police instructed his officers that only such a man should be registered who had 'some direct interest in the trade of the women who were to resort to his house'. If rent did not represent a direct interest, what did? In official parlance, only if a house-proprietor resided on the premises himself, or managed such a house or rooms did he qualify as brothel-keeper.<sup>181</sup> Going by the evidence from Murshidabad, it would be too simple to suggest that the administration had misunderstood the relationship between masters and slaves vis-a-vis real estate. The house-tax measures which had been initiated as early as 1811 but were only bearing fruit by the 1840s, had after all recognised that a series of under-tenancies removed the 'owner' of the land or house from scrutiny. However, where these house-tax forms allowed masters to house their slaves-servants in houses owned by the masters, the liability for registering

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*anumatipatra* of adoption, had to be registered. See J.Carrau (ed.), *Circular Orders of the Court of Sudder Dewanny Adalut* (Calcutta, 1853), pp.309-13.

<sup>178</sup>See Raja Radhakanta Deb to Sec. to GOI, 1 Dec. 1851, for a law to enable him to distraint for rents in Sutanuti on the lines of Act XXIII of 1850, BC F/4/2473/138539. This act had facilitated the collection of small rents in Calcutta by government, but Radhakanta Deb's request had not been granted.

<sup>179</sup>For the list of houses, in areas like Chitpore Road and Mechuabazar, associated with the tenantry of Radhakanta Deb, see L/AG/34/27/151. See Section II, Appendix III.

<sup>180</sup>C.O. 34, 20 Sept. 1869, Encl. in BMP, P/873, June 1876, nos. 20-21.

<sup>181</sup>The Bengali translation of the instructions and the Circular Order reveals that the separation was significant. See Girishchandra Mukhopadhyaya, *Beshya Guide* (Calcutta, 1869), pp. 2-3 and p. 14. In this, the term for brothel-keeper at the beginning is *batir karta o rakshak*, loosely translated as master of the house as well as the patron of the house. After the Circular Order, the term for brothel-keeper is *batir dakhalikar o adyaksha*, loosely occupant of the premises and manager.



these properties and the names of the residents was finally the 'owners'. The attempted licensing and registration of these houses and rooms by the immediate occupants' (the managerial servant, the elderly ex-slave or concubine) rather than the direct 'owners' was an exercise in deflection. In effect, the government sought to guarantee the continued possession of both bodies and premises in exchange for a regular sum of money. The same ethos of guarantees to private property established in the cantonments had secured similar advantages to the men and women who controlled the *chakla* while providing that the costs of the maintenance of the institutions were borne by the indigenous supervisors and slave women. That is why the *chakla* builders had been allowed to charge rents without a ceiling.

Concurrent with the efforts of the census enumerators, the effort to register both the women and the houses of these important collaborators of the regime ran aground almost immediately. Just like the census takers were faced with 'empty houses' by the flight of some of the residents, so was Act XIV resisted by removal from Calcutta. Yet here again, official reports suggest that the flight of the women was entirely one of their own volition. Thus the Commission of 1881 spoke of the 'large suburb immediately adjoining Calcutta, by resorting to which prostitutes can evade or defy the Act'.<sup>182</sup> But such ascription of volition disguises the fact that these women (whom officials described as 'absconding') were either re-located or hidden by their patrons, as is suggested by the vernacular literature. A woman called Thakomani told Sivnath Sastri that she had been brought to Calcutta by her married patron but fear of the Act XIV had led to her being temporarily lodged in an uninhabited section of Bhabanipur.<sup>183</sup> A similar picture of disruption is presented in the satires and literary pieces of this period, especially *Beshyanurakti Bishambipatti* (1864), *Beshya Bibarana Nataka* (1869), *Bahaba Choudda Ain* (1869), *Panchali Kamalkali* (1872) and others. The anonymous author of *Bahaba Choudda Ain* noted in his preface that after the passing of the act the wealthy 'upapati' (patrons) had removed their concubines to Farashdanga, some to Hugli Srirampur, some even to Burdwan.<sup>184</sup> An equally sharp representation of this was *Panchali Kamalkali, Choudda Ain* (1872) which described the desolation of the Sonagachi-Mechuabazar areas in Calcutta because of the relocation of the women by their

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<sup>182</sup>Report of the Committee Appointed to Examine the Workings of the Contagious Diseases Acts, 1883, 50, no. 200, p.569.

<sup>183</sup>Sivnath Sastri, *Atmcharit* (reprint Calcutta, 1952), p.135.

<sup>184</sup>The text is: *kaharo kaharo upapati mahadai grosto hoiya ...upapatnidigoke loiya Farashdangaye, keho ba hugli Srirampur, keho ba Bardhaman rakhiya ashiyachhen...tahadiger tattvabodhaner jonyo keho keho protidibash pare keho ba protidin louha marge gaman koriya thaken*, p.3. (Some of the patrons have taken their secondary wives to Farashdanga, some to Hugli Srirampur, and yet others have taken them to Burdwan. For their superintendence, these patrons have to take the railway at varying intervals.)

owners. Another play tried to comprehend the declining rates of income for the holders. As one of the characters in *Beshyanurakti Bishambipatti* put it, if Act XIV meant that most of the women had been induced to leave Calcutta there should have been higher prices charged in Calcutta as a consequence of a restricted supply of women, and yet the very reverse had happened. Emptying of houses and declining rates of hire of the skilled and unskilled artisans living in these in turn caused consternation in the ranks of the rentier-landlords. Since these were the groups which also controlled their clients who managed printing presses and newspapers, numerous complaints made in the press were noted by government. In fact, by the 1880s, there was a remarkable correspondence between the tenor of the petitions of the British Indian Association and the vernacular literature surveyed above. The main litany was the desertion of the town, and a secondary theme in the complaints was the ignominy of the medical examination. Thus Babu Peary Mohun Mookerjee, the Secretary of the British Indian Association, urged that the Act had led to the 'desertion' of the city because 'a very large number of the public women left the city and sojourned in the suburbs and further away'. He went on to urge that no amount of 'sanitary benefit could compensate the outrage committed on the remaining women and through them on society'.<sup>185</sup>

No complainant, indigenous or colonial, said a word about the fact that in Calcutta, women could be examined in the houses they lived in. In sharp contrast to the policy in the cantonments, where there were single institutions called the lock-hospital, in Calcutta, there were multiple institutions which could examine and treat diseases of women. (See Map V). The first hospitals opened in 1869 to receive women under Act XIV were (1) at Sealdah, the site upon which the later Campbell Medical School buildings were erected (2) at Bow Bazaar, till the building was handed over to the Magistrates' Courts in 1872, (3) the Alipore lock-hospital, which was opened in November 1869 and became the main repository of diseased 'native' women and (4) a number of dispensaries at different points in the city, for example the dispensary established in 1792-3 and renamed after Mayo in 1872, the Chandney and Sulkea dispensaries, apart from the Medical College wards for the European women patients and finally (5) from September 1870, a system of examining women in their own houses twice a month. Each woman thus examined paid a monthly fee of Rs. 4 in advance and the money realised was paid into the office of the Commissioner of Police, from where it was distributed among the police and the medical staff

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<sup>185</sup>Petition to Sec. to GOB, 17 Nov. 1887, L/MIL/7/13810. The demands in this petition are very different from the demands of another petition of the Calcutta Missionary Conference. The former shows a willingness to continue the registration of the women of the Europeans, whereas the latter urges that all such measures be immediately prohibited.

operating the Act.<sup>186</sup> By 1873, official reports of the number of women on the list of home examinations hinted that the expense was too large to be availed of by many of the concubines.<sup>187</sup> These medical examinations were no more geared towards the improving of 'public health' than the measures in the cantonments had been. Or if they were still to be regarded as health measures, the health of female slaves and concubines had clearly been eliminated from the realm of 'public' health. A cautious Superintendent of Lock Hospitals for Calcutta admitted as much. Referring to the common error of those who thought Act XIV was about the eradication of all venereal diseases in Calcutta, he said that 'while the women are subjected to supervision and periodical examinations in order to protect the male population from contamination, no protection whatever is afforded them against them being infected by the opposite sex'.<sup>188</sup>

Apart from paying for the examination at home, there does not seem to have been any other charge or payment levied upon the women being brought in to register. This was another departure from the policy in the cantonments. Given both the existence of home-examination and the general non-taxability of the registration, why then did the largely male-authored press complain so vehemently? Was this an ideologically rooted battle over reform, amelioration or even abolition of such slave-use and transfers, or even about the health of such women and girls? The evidence negates any such humanitarian concerns. Though neither the indigenous holders of such slave-women, nor any official had ever pointed it out, the ultimate contradiction represented by the Act XXII and Act XIV was that these purported to register what the Indian Penal Code, Sections 372-73, were supposed to prosecute - the sale, purchase, disposal and use of 'minor' females for the purposes of prostitution. In 1872-3, official discussion around the ages of the women who were to receive the protection promised by these two sections of the Penal Code reveal the collusion of indigenous opinion-maker and colonial official alike. Various police and medical officers hinted at their own culpability under the provisions of the Penal Code. The Commissioner of Police of Calcutta, for instance, suggested that the minimum age required for delimiting Section 373 be lowered to fourteen from the earlier limit of sixteen years, because 'there are about 2000 prostitutes in Calcutta under the age of sixteen, and a question may arise as to the legality of registering prostitutes under the legal age'.<sup>189</sup> Dr. Payne, the Inspector-

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<sup>186</sup>Superintendent of Lock-Hospitals to Inspector-General of Civil Hospitals, Bengal, 9 March 1886, West Bengal State Archives, (henceforth WBSA), GOB, Municipal (Medical), Dec. 1886, progs. nos. 38-40.

<sup>187</sup>Offg. Commr. of Police to Sec. to GOB, Judcl., 19 Apr. 1873, ISP, P/1002, Feb. 1876, no. 20.

<sup>188</sup>Surgeon Major Shircore to Commr. of Police, 25 March 1873, *ibid.*

<sup>189</sup>Memo by Commr. of Police, IJP, P/708, Jan. 1875, no. 55.

General of Hospitals, also recognised that under the Contagious Diseases Acts, 'many girls of less age than sixteen are registered, and therefore legally recognised as prostitutes'. He too had advocated a lowering of the minimum age to fourteen. Such men had ample verification from the indigenous opinion-givers who added a further twist to that discussion by urging that section 372-3 should distinguish between 'domestic' circles and 'houses of ill-fame'. For the 'minors' in the latter, an age even lower than fourteen was recommended by a well-known doctor, Mohendrolal Sirkar, who put it plainly thus: 'if the natural guardian of a girl has designed prostitution as the means of her livelihood, it is hard that anybody should be punished for turning her to that use'.<sup>190</sup> If all parties were equally uncaring about the physical health or moral values about the use of fourteen year old female slaves as prostitutes, what then caused the judicial cases around the operation of the Act?

The answer lay in the battle for 'ownership' over these female bodies, centred around different ideas of registration. Between an administration that tried to use registration as though it was a contract of service and the tickets as though these were 'passes' to regulate the mobility of the servant thus registered, and an indigenous group of holders that understood that writing constituted the first step in the handing over of claims from one owner/master to another, the tussle was inevitable. From regions outside of Calcutta there had been enough evidence regarding the persistence of registration bonds of the transfer of slaves. For example, from Monghyr in 1858, it was reported that *qazis* had registered deeds of sale by owners/parents of female children from 5 to 7 years of age, and that such transactions were common.<sup>191</sup> From Dinajpore, another official reported having seen 'several deeds of gift, executed on stamped paper' by which parents handed over their daughters.<sup>192</sup> From Serajgunge in Rajshahi district, another official reported the existence of registered bonds, ostensibly for money borrowed, but in fact operating as securities extracted from refractory slave-girls that they would remain with their 'adopted mothers'.<sup>193</sup> It was the fear of having one's slaves and concubines taken over by government agencies that propelled the agitation and evasion of Act XIV in Calcutta. Notwithstanding police and executive assurances that Act XIV was not operative against the women who were 'associated with the

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<sup>190</sup>Ibid.

<sup>191</sup>Sessions Judge of 24 Pergunnahs to Sec. to GOB, 8 Feb. 1873 in WBSA, GOB, Judcl., June 1873, Progs. B167.

<sup>192</sup>Offg. Jt. Magt. Dinajpore to Commr. of Circuit, Rajshahi, 15 May 1872, WBSA, GOB, Judcl., Oct. 1872. progs. B260.

<sup>193</sup>Dst. Magt. Serajgunge to Commr. Rajshahi Divn., 7 May 1872, *ibid.*, no. B265.

middle and higher classes of natives',<sup>194</sup> the evidence reveals the intensification of registration measures of precisely this group of women between 1871-1880. Thus the contest around registration that developed in the courts became contests over the right to appropriate the person whose name was written down, and a battle over the profitability of holdings.

A definitive moment for this contest came in 1880. A woman called Nistarini Raur, who had been registered under Act XIV was arrested by the police in Calcutta on the grounds that she had failed to present herself for the regular medical examination.<sup>195</sup> The Presidency Magistrate before whom she was first prosecuted found that she had ceased to be a prostitute within the meaning of the Act, but referred three questions for opinion of the High Court. These questions related to (1) the validity of Rule 27 under Act XIV, by which a registered woman was liable to arrest without warrant for non-attendance at medical examination (2) the validity of Rule 13, by which the Commissioner of Police could refuse to de-register such woman and (3) in case of prosecution under Act XIV, her right to plead that she had ceased to be a prostitute, which counsel on her behalf had claimed. The High Court refused to consider the first question. On the second and third references, the High Court held that it was every registered woman's 'right' to have her name removed from the book. Any obstruction to this right was therefore invalid in law.

The soul of registration had been bared. The Bengal Government advised the central government that it had been 'a fortunate circumstance' that this judgement had not come earlier.<sup>196</sup> A Committee was called to report on the ways in which Act XIV could be amended, to overcome the leaks it had developed. This committee however recommended the withdrawal of Act XIV from most of Calcutta. It is interesting to note that the terms in which the Government of Bengal couched the withdrawal of the Act from the northern part of the City which contained Sections E and F, limiting its operation within an imaginary line south of the Circular Road, echoed the complaints of the landlords' associations and presses. 'The system of registration and inspection... necessitates an interference with the people in their most intimate social relations... There has throughout been on the part of the native public and press a bitterness of denunciation of the Act... indicate a more than merely abstract objection to its policy and working'.<sup>197</sup>

The withdrawal of government in the face of the entrenched rentier interests in Calcutta, alongside the tightening of the financial screws in the cantonments under Act III of 1880, indicates

<sup>194</sup>Offg. Sec. to GOB, Judcl., to Sec. to GOI, 19 June, 1871, ISP, P/674, July 1871, no. 6.

<sup>195</sup>*Englishman*, 1 July 1880, report on *Empress vs. Nistarini Raur*.

<sup>196</sup>C.Macaulay, Offg. Sec. to GOB to Sec. GOI, Home Rev.& Agr., 26 July, 1880, ISP, P/1664, Jan. 1881, no. 38.

<sup>197</sup>GOI, Home (Sanitary), to Sec. of State for India, 16 June 1882, in Report of the Commissioners, (PP), 1883, p.596. Emphasis added.

that where slave-women and concubines were concerned, the parasitism of the colonial state and the hegemons was re-established after a brief hiatus in the 1860s and 1870s. Such parasitism was fully demonstrated in 1906, when the same drive to improve municipal taxation led to another round of conflicts over the control of 'empty houses' which the Government of Bengal characterised as 'houses of assignation'.<sup>198</sup> The government of Andrew Fraser appointed a Committee to suggest amendments to the Bengal Police Act of 1866. The Commissioner of Police of Calcutta drew up lists of the principal landholders on whose property the houses of prostitutes were situated. These lists named the Sett brothers who owned 'a good many of the Chitpur Road houses', the Ghoshals 'considerable landlords of the Southern Division Suburbs,' as well as Promotho Nath Mullick the 'owner of Haldar Bagan' and Sitanath Rai Bahadur.<sup>199</sup> Curiously enough, the last two men were members of the very Committee appointed to enquire into the question. To no-one's great surprise, the amended bill left a provision for the owners of such houses to plead ignorance of the use to which the lessee or tenant had put the house in order to protect themselves, besides enabling police to serve notice only upon a woman residing in the room or house to cease doing so within ten days.

#### **Back to Basics: to Breed and/or to Buy**

The compromise between the indigenous landlords and their British collaborators hammered out in 1881 had serious effects on the inner market of transfers of both free and slave-children to this form of labour. To gauge the spread of the phenomenon by the end of the nineteenth century, one could try to answer the question that dominated official discussions around the criminality of these women - principally their practice of abortion. Did the women registered as prostitutes succeed in providing the next generation of servile labour, or were they in turn led to invest in the purchase, farming out/conveyancing of female infants and young adults? In the reports called for by government in 1872 regarding the numbers of kidnapped young females in the custody of professional prostitutes and keepers of brothels, most local officials reported completely quotidian and peaceful transactions through which female infants were gifted and sold alongwith guarantees in writing on the owner's title. Bhugwan Chunder Bose wrote of the 'Byjees, Notis, and Khemtalwalis' that every old woman has her *sukri* and the wealthy ones have 3 or 4., but there was no systematic kidnapping.<sup>200</sup> Another Indian official, Bhubaneshwar Singh found in Nattore town 19 boys and 41 girls under 10 years of age of which one boy and 10 girls 'appear to have been

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<sup>198</sup>Chief Sec. to GOB, to Sec.to GOI, 16 Jan. 1907, in WBSA, Home (Political) Confidential, no. 47 (1-5)/ 1906.

<sup>199</sup>D.O.of Commissioner of Police, 30 April 1906, in Ibid.

<sup>200</sup>Dy.Magt. Brahmanberia to Magt. Tipperah, 25 May 1872, WBSA, GOB, Judcl., Oct.1872, no. B271.

obtained as gift from outside' but again kidnapping was not the source of such supply.<sup>201</sup>

Only the Deputy Commissioner of Police in Calcutta, A.H. Giles, believed that all the children found in the brothels by the special inspectors under the Act XIV were born of the women themselves. According to this official, the 'best evidence' that most of the very young girls were the offspring of the prostitutes themselves was the fact that of the very young children found in the brothels a considerable number were males. Moreover, he urged, the records showed that about a hundred registered women were annually exempted from medical examination on account of pregnancy and confinement i.e. in Calcutta, at least fifty female children were born to prostitutes every year. The other large number of children were those born to widows prior to their outcasting, and thus followed their birth-mothers to the brothels.<sup>202</sup>

Apart from the insensitivity of British officials in general to the vulnerability of infant males to homosexual prostitution, this document reveals a typical ideology of kinship. For instance, the Commissioner of Police described the 408 females under 10 years found by the special inspectors as 'children or nearly related to those with whom they are residing' even though he was aware that such female connections were kept 'partly as servants'.<sup>203</sup> Moreover, nothing was said of which kind of widows brought their children with them - the *nikahi*, the *mumtood* or the *shadi*. In contrast to the exquisite distinctions of status of 'wives' according to typologies of marital contracts evinced by colonial officials in matters of inheritance in indigenous households, in the context of this sector of slave-use, officials refused to distinguish any specific hierarchies among the kinds of widows. In any case, the number of registered women who continued to be fecund in each year represented only a tiny proportion of the thousands on the register in that very year. Yet if the fecundity of these registered women was an established historical fact, it would substantially modify the picture that many contemporaries had of 'prostitutes' being particularly 'self-interested' in practising abortion and foeticide.

In her analysis of the widespread use of abortifacients in Bengal in the nineteenth century, Guha has pointed out the anomalous nature of the explanations offered by colonial officials for these practices generally.<sup>204</sup> Against the stereotypical colonial and medical explanation linking foeticide with shame at 'illegitimate' pregnancies, Guha counters that the tolerance of forms of concubinage made legitimacy and illegitimacy not only imprecise categories, but also that

<sup>201</sup>Dy. Magt. Nattore to Commr. Rajshahi Divn., 28 May 1872, *ibid.*, no. B262.

<sup>202</sup>Memorandum of Offg. Dy. Commr. of Police, 8 May 1872, *ibid.*, enclosed in no. B253.

<sup>203</sup>Commr. of Police to Sec. to GOB, 17 May 1872, *ibid.*

<sup>204</sup>Supriya Guha, 'The Medicalisation of Childbirth in Bengal in the Nineteenth and Twentieth Centuries', Ph.D. Dissertation, Calcutta University, 1996.

'illegitimate' pregnancies were destroyed by patrons and owners of such concubines and slaves,<sup>205</sup> rather than always and everywhere being a gynaecological resistance by the latter.

The logic that Guha invokes appears to have been applicable to households like that of Murshidabad, Chitpur, Dacca - from where we have noted the connection between tensions around childbearing and the hierarchies of the harem. Yet her arguments throw up further questions for the patterns of circulation of female slaves in the nineteenth century. If the logic of a slave-holding household was to work towards the physical and numerical growth of such holdings, under which specific circumstances might owners and patrons induce abortions? A curious admixture of elements from the moral economy as well as from the political one might explain what seems to have been a phenomenon of selective foeticide by mid-nineteenth century. In that many of Guha's reported cases were instances of patrons and masters helping to abort, or kill, pregnancies and children of their own concubines, they appeared to have erected barriers to the manumission or elevation of status and incorporation as kin (and jati) of both the slave-woman and the child born of her. While this could indicate myriad and simultaneous metamorphoses - for instance, the fashioning of the affective family and genealogical kinship, the shrinking of resources within various slave-holding groups countermanded by the expansion of the profitability of slave-prostitution in towns and cantonments, the marriage-in-crisis reform movement - it had begun to mirror the practices of marginalisation of the colonial holders themselves. There seem to be few other historically valid explanations for female slaves and concubines to destroy all hopes of social personhood by destroying their potential chances of becoming mothers.

The question that remains largely unanswered is: had many of the slave-women and concubine-widows been registered as prostitutes because they had either failed to become birth-mothers to children within the owners' households or had been prevented from becoming mothers? For both kinds of prostitutes - those exempted from examination in the sixties and seventies for reasons of pregnancy and those not so exempted - there are two kinds of records that together suggest the failures of natalism among this group of females. The first is a series of testamentary papers of specific 'Raur's' in Calcutta in the period 1826-84, and the second is of the non-official organisations compiled thirty years later. The former, which appeared to have been created in order to guarantee the claims of their patrons and creditors upon the wealth acquired and accumulated by these women, spoke simultaneously of the genealogical isolation of the women (signed as *Bewahs, Raur's*) and of the bequeathing of metaphorical sons and daughters to their patrons.<sup>206</sup>

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<sup>205</sup>Macnaghten (ed.) *Reports of Cases tried at the Sudder Nizamat Adawlut*, II, pp.225-227, cited in S. Guha, Chapter IV.

<sup>206</sup>Will of Srimottee Wodoycomaree Bewah, L/AG/34/29/69, (1844), pt. I, pp.369-78. This specifies that the patrons have direction of her *palak kanya*, translated by the court as foster daughter. Another *palito kanya* is left in the will of Sonah Bewah Bariwalli to the charge of her patron's heirs, L/AG/34/29/129,



The second was even more detailed. In a memorial to the Lieutenant-Governor of Bengal in 1907, the Society for the Protection of Children in India (SPCI) described numerous instances of such metaphorical daughterhood and the transfers of such daughters. In one instance, the memorial said, a woman of 'ill fame' died in a hospital, leaving a seven-year old girl. Investigations revealed that the girl was in 'no way related to the woman but had been... procured by her. The child could give no account of herself, having been for some time in the woman's possession'.<sup>207</sup> Another five or six year old girl, found to be living with a prostitute, was also found to be unrelated to her custodian: the woman stated that the child was being reared in order to give her to a man who would then maintain the older woman.<sup>208</sup> Another such 'daughter' aged 2 1/2 years was inherited by two women in succession till a man claiming to be a relative appeared to remove the child and endeavour to sell her in several places in the city. The child was eventually found in the possession of a woman who demanded Rupees 25 for the girl alleging that this was what the child had cost her.<sup>209</sup> The transfers occurred not just within the city of Calcutta, but between the city and the outlying areas, as for instance, that of a 3-month-old female 'given' to a prostitute who then placed her with a family in a village, from where she was passed to another village and so on till she died.<sup>210</sup> Another eleven year old girl, who 'had passed into the possession' of a prostitute, had then subsequently been sold for Rs. 12 to a woman who she then 'belonged' to.<sup>211</sup>

The SPCI memorial is important because it helps to complicate the official mythology of 'hereditary' prostitution, - how did such labour become passed on in the blood when the children were not born of them? Furthermore, the memorial hinted at the stakes that the Babus of Calcutta had in the transfers and transactions around such females. For example, the memorial described one 'Uriya' girl, removed from a brothel to a home, being two years later removed from there by a 'Babu [who] provided the means, and the girl was taken in a *ghari* to a house of ill-fame in the

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(1884), pt. II, pp.106-08. This kind of rearing of children does not appear to have been limited to girls, since the will of Rajcomaree Raur speaks of the fostering of a *bhikkaputro*, L/AG/34/29/96, (1857), pt. IV, pp.7-14, as does the will of Rajcomaree Bewah with regard to a *dharmaputra* reared in lieu of an 'womb-born son' in L/AG/34/29/129, pt. II, pp.25-28. The significant differences between the fates of such sons and daughters however awaits further investigation.

<sup>207</sup>Case no. 65, 1903, in J.G.Bell, Sec. of SPCI to President of the Committee to consider the Memorial, 31 Oct. 1907, WBSA, GOB, Home (Political), Confidential, File no. 122 of 1907, serial nos. 1-4.

<sup>208</sup>Case no. 383, 1907, *ibid.*

<sup>209</sup>Case no. 131, 1904, *ibid.*

<sup>210</sup>Case no. 188, 1905, *ibid.*

<sup>211</sup>Case no. 210, 1905, *ibid.*

city'.<sup>212</sup> Another member of the SPCI sent to recover another purchased twelve-year-old girl found himself 'mobbed and deprived of the girl, a Babu in Government service taking a prominent part in the proceedings'.<sup>213</sup> However, it was only the sharp pen of a female lawyer, Cornelia Sorabji, that could encompass the connection of the Babus with the inner slaving economies, for which the middlewomen had borne the brunt. She wrote thus

Jalpani (food and water or refreshments) is the name given to the arrangement by which rich elderly men import children from villages into a town, and place them in the care of a woman paid for their upkeep - "food and water" - so that they might be ready and secretly accessible to these men whenever required. They are imported at the ages of 2 and 3, and are thrown away as sucked oranges, into the gutters of the common brothels as soon as they mature, or cease to attract their original and individual patrons.<sup>214</sup>

Neither government, nor the military officers, nor the indigenous masters in the nineteenth century tried to abolish this inner economy of slave-transfers: each had tried, in turn, to literally 'corner the market'. In one section of the administrative structure, the cantonments, the profits in human and inanimate wealth, had been successfully gathered into the coffers of the army. But in the non-military sections, the profits had been temporarily threatened by the government, and been successfully wrested back by the indigenous masters. If this was a triumph, the costs of this warfare were paid in the currency of slave health.

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<sup>212</sup>Case no. 125, 1904, *ibid.*

<sup>213</sup>Case no, 194, 1905, *ibid.*

<sup>214</sup>Note on the National Council of Women in India: The Traffic in Women and Children in Sorabji Papers, Mss. Eur. F. 65/155, p. 2.

## *Conclusions*

*'It is an abuse of language to talk of slavery'.<sup>1</sup>*

This study has attempted to highlight the processes by which a key political and social institution was erased from the historical record. Partly a result of linguistic strategies within every group of slave-holders, the obliteration was also the result of contemporary, and subsequent, assumptions about the role of slaves in a political economy. While British officialdom occluded non-plantation models of slave-holding and use in order to maintain the socio-political institutions in which they were deeply imbricated, historians failed to discern the shifting nature of slavery in South Asia due to an absorption with fixed statuses and dyadic models of slavery. A 'thick description' of different kinds of slaves as they moved within the structure of a household (in time), as well as between different masters and households (in space), within the Nizamut of Murshidabad, and similar households in Dacca and elsewhere has been attempted in this thesis. These chapters have highlighted the degree of stratification within the category 'slave' as well as the complex manoeuvres in the making and unmaking of law that arose in the context of the Company's efforts to instil a principle of 'legitimate' family and succession, to create 'class' on the basis of property rights in which slaves did not share. Taken together, these had implications for the peculiarities of 'family' law as it grew apart from 'property' law, significant because they revealed that many of the Company's revenue policies were in effect a complex depriving both slaves and erstwhile masters of material incomes, which were then re-circulated within the colonial structure.

Contrary to assertions about the ways in which textualisation and codification imposed a standardised 'Islamic law' in the region controlled by the Company, this study has tried to argue that the very construction of Islamic, family and property law by colonial scholar-officials occurred through ideological prisms derived from other colonial slave-formations and practices. These lay at the heart of ideologies by which 'elite' classes could be separated from non-elites, and genealogical kin could be separated from non-kin and 'illegitimate' kin. Such separations had various epistemological, social and legal consequences, one of which was the establishment of **divergent** status-reckoning systems, one apparently to apply to slave-born, and another for non-slaves. Illustrated by the practices of the colonial slave-holders themselves, who reserved patriliney and legitimacy for their children born of 'regularly married' co-ethnic women, while denying patrilineal assimilation to children born of slaves and concubines in India, the institutionalisation of divergence underlay the terms within which the Company conducted its investigations in each of the household-polities involved. The consequences for both, the creation of Anglo-

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<sup>1</sup>A. Amos, Minute of 10 June 1842, BC F/4/1947/84545.

Muhammadan law and for the households, were substantial. Even as a standardised way of reckoning legitimacy was generated within a corpus of Anglo-Islamic law within which slave-born and slaves had earlier been articulated as claimants within and upon the household, the Company backed off in implementing these doctrines uniformly or simultaneously. Thus even though patterns of slave-incorporation, concubinage and slave-birth were practically universal, the Company's decisions in each case was made not in conformity with its own construction of 'Islamic' law but according to secular concerns, like political control and revenue-collection at specific moments in each region. This can be seen at two different levels. Within a group of overtly Muslim households like that of Murshidabad, Chitpur and Dacca, while the patterns of the harem continued to be similar especially with reference to the supremacy of the matriarchs and their control of the progeny of slave-concubines, the criteria for the Company's recognition of particular males as 'heirs' to either the zamindari or the musnud in either case fluctuated dramatically. Thus while a boy born of a slave-prostitute was recognised as Nazim in Murshidabad in 1836, a boy born of a reared slave-girl was not recognised as Nawab of Dacca in 1843. Similarly, while the Company persistently claimed that the adjudication of inheritance issues was to occur according to principles of Islamic law, it suppressed the 'wala' claims upon which the wealth of many slave-holding households was managed. Within the overtly Hindu households, which I have largely omitted from this study, a similar pattern of fluctuations between colonial pragmatism and between what was thought to be doctrinaire law was visible, as in the case of the Bharatpore. Most typically, as in the Nazir Deo succession case of the 1860s from Cooch Bihar, colonial judges, caught in a web of their own interpretations of consanguinous kinship, and of rituals of marriage, inscribed the language of hypergyny (phoolbibah, nikah,sanga), polygyny, and an idiom of caste into a classicised Hindu Law, which further ensured the erasure of more fundamental issues.

The false presumptions on the basis of which divides between marriage, concubinage and prostitution, especially in a polygynous and slave-holding context, had been constructed by historians are finally open to re-examination, in the face of a constant circulation of female slaves through the households and the markets. To quote one of them,

...unlike the wife who sells her body "into slavery once for all", and is made to turn it into a breeding machine for producing sons (...), the prostitute hires out her body without the obligation to reproduce. What she produces in the course of her labour is intangible for herself, but is a purchaseable fantasy for her male client.<sup>2</sup>

As this thesis proved, any simple separation of sexual labour (one kind which produces children

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<sup>2</sup>Sumanta Banerjee, 'The "Beshya" and the "Babu": Prostitute and Her Clientele in 19th Century Bengal', *EPW*, 28, 45, 1993, p. 2461.

and another kind which produces male fantasies of power) is historically untenable. The evidence is that instead of the neat ellision of reproductive labour with marriage and other sexual labours with prostitution, slaves-as-prostitutes, as much as slaves-as-wives, performed the reproductive labours necessary to the production of human wealth (children) and inanimate wealth (houses, cash earnings). Depending upon the kind of mores by which status determination occurred, in one case, they reproduced lineage, and in other non-lineage. And it was this group of women who could not claim the fruits of their labour (the children, and the status of social mothers) for themselves. Though this thesis has not dealt with the larger field of sexual labours performed by male slaves, it must now be recognised that the representation of all sexual labour as the domain of women is also untenable. Finally, in the context of many slave-holders being women, historians need to challenge an *a priori* assumption that the extraction of sexual labour represents the domination of the adult male. It emerges that the Engelsian equation of the displacement from paid employment leading to women's subordination must be turned around: we have to explain who put the slaves, men and women, to work in the first place, and whether the wages were earned in return for 'freedom' as well as to whom the wages were payable.

These conclusions, in turn, suggest that there is good cause to re-evaluate the Company's claims of a more 'humane' criminal law in India. As Chapters III and IV reveal, as long as a discourse of law provided moral legitimation for the continuation of slavery, it was not legislative statute or implementation of legal codes that changed the patterns of slave-holding and slave-transfers between different sites in the 'domestic' economy. Therefore, what validity and accuracy can be attached to claims made on behalf of colonial law that it made masters culpable for the murder of their slaves? This, it is usually suggested, was begun by Regulation VIII of 1799, which withdrew the exemption of the master from *kissas*, by which compensation in blood or money could be claimed from the kin group of, or the individual, who had taken the life of a person who belonged with a household or to a family. The abrogation of masterly exemption (for murder of slaves) made jurists like Colebrooke claim that since 1799, slaves had 'not been considered as out of the protection of the law, either in the case of murder, or of barbarous usage'. Yet, did this actually protect slaves from violence or did it have the opposite effect of establishing certain levels of physical brutality as 'minimum' and the yardstick of 'moderate chastisement'?

This was particularly significant in the way that indigenous masters at the end of the eighteenth century may have responded to the delicts of slaves, an issue completely absent in the English discussions of 'Islamic criminal law' or indeed even of criminality. The issue of noxal liability, the liability of a slave to punishment by the state for a crime committed against a person other than the slave's master/mistress, has never been separated from claims upon slaves, and the transfers of slaves, both in Indian historiography and in Company regulation. The anecdotal evidence from the seventeenth century, however, indicates that slaves were not made responsible

for their actions against third parties, because of a presumption that they acted on the direction of their masters. Furthermore, when slave-violence erupted against masters, the readiness of the state machinery to move against slaves was dependent upon a range of factors. In Dacca, where a group of slaves fled after murdering their master, the English Collector instructed the Faujdar of the Nizamat at Dacca to pursue the 'criminals', which the latter refused to do until some of his claims for justice against the English were met.<sup>3</sup> Nor were all masters capable of punishing the slave who had caused trouble: Mir Saidu, one of the 'sons' of Miran, who complained that Mian Jan Chela had been a great 'mischief-maker' and the cause of dissension between his mother and brothers, only requested that the *chela* be turned out of Murshidabad and sent away 'beyond the Karamnasa' after a settling of accounts.<sup>4</sup> His contemporary, the wife of Munirud Daulah I, on the other hand, complained against Daulat Afzun, 'an eunuch who was brought up from his childhood at her household and who during the lifetime of the late Nawab was his agent and cashier, managed all his affairs and signed all his documents for him' for having wasted money in bribes and for bringing false charges against her son. Yet, even though she asserted that in '*Shariat* a slave is the property of his master and his ungrateful behaviour towards him is unlawful', it was obvious that her call for 'deterrent punishment' of Daulat rested upon her inability to inflict it herself. The fact that the Company's courts fulfilled such demands put upon them by indigenous masters obscures the fact that it was **not** Islamic law that the Company acted upon.

For one, in the Quran every punishment specified for a free man or woman was halved when it was a slave who was the guilty party. Furthermore, most indigenous adjudicatory regimes distinguished between the body of the slave and the free, as they distinguished between the body of one's own slave and that of another's slave. These distinctions appeared to have been eroded from the onset of Regulation law. Commenting on the report of cases of 1773 of the newly constituted Nizamat Adalut, Hastings overturned a judgement of *diyât* given by the maulvis against a man who had beaten his slave-girl to death on the grounds that '...as it does not appear that there was any intention of murder and Mohammedan Law as well as ours admits of moderate correction to a slave or even a hired servant, the prisoner ought to be acquitted or forgiven'. The transfusion of principles of English slave-law, in the image of which all 'indigenous' law was to be made, was equally evident when Hastings transformed another sentence of *diyât* against a man who had killed another person's slave-woman into one of death for the offender.<sup>5</sup> The uniformity of the maulvis'

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<sup>3</sup>C. W. Boughton Rous to Warren Hastings, 26 Sept. 1777, in Anon., *A Plan for the Government of the Provinces of Bengal* (London, 1772), Appendix, p. 35.

<sup>4</sup>*CPC*, V, p. 80, no. 528 and p. 108, no. 709.

<sup>5</sup>See N. Majumdar, *Justice and Police in Bengal: A Study of the Nizamut in Decline* (Calcutta, 1960), Appendix A, pp. 315-16. Emphasis added.

decisions- granting *diyat* against both the man who had killed **his** slave-girl as well as the one who had killed **another's** slave - contrasted sharply with Hastings' differentiating between the two, acquittal for the former and death for the latter. It is possible to suggest that the maulvis were indeed closer to other indigenous legal decisions on such issues if we look at the contemporary Maratha records. In the latter, there is the case of Malhar Balaji Mahajan, who having beaten his own slave woman as a result of which she died the next day, nevertheless had to pay a *gunehgari* (fine) of 25 rupees, and perform a *prayaschitta* (expiation for sins).<sup>6</sup> It was only when a person had destroyed the slave girls of another man that he had to pay with his own life. Instances of the payment of monetary compensation for the injury to a slave persisted in many regions. For instance, in 1791, the Qazi and Mufti of the Patna Court of Circuit found four men guilty of having wounded a slave, presumably a third party's, and ordered that a financial restitution be made.<sup>7</sup> In contrast, Hastings' decrees, while allowing the encroachment on another's property to be visited with capital punishment, also acceded the completeness of mastery in oneself to the extent of depriving the slave of her life.

Clearly, it was not customary practice, nor even textual law that was to be implemented, but in a mode of borrowing between laws unstudied so far, slave-law of the English colonial kind. In 1796, for instance, when an English indigo-planter, Mr. Hunter, was tried in the Supreme Court for having severely wounded two slave-girls of his own household, the counsel for the defence, Srettell, contended that 'slavery was legal by Mahomedan law', as was severe treatment of slaves 'short of life' to argue that Hunter should not be punished.<sup>8</sup> In situations where slaves could be hired and leased, and were indeed so conveyed to English soldiers, officers, merchants and indigo-planters, did the withdrawal of exemption by Regulation of 1799 also extend to English masters and hirers for destroying a third party's slaves? The records of punishments in cases where English masters were involved is susceptible of greater scepticism than the claims of an universal 'rule of law' have hitherto permitted.

As for indigenous slave-holding households, the question of culpability of masters and mistresses, and of slaves, appear to be in equal need of refinement. Did the standardisation of punishment actually effect the exemptions of slaves from lesser punishment reserved for slave-delicts in *sharia* law? Did colonial regimes, especially with the equalisation of punishment, actually make some slaves **more** vulnerable to imprisonment and punishment than hitherto? The

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<sup>6</sup>V. T. Gune, *The Judicial System of the Marathas* (Pune, 1953), Appendix B4, p. 354, no. 56, circa 1786-87.

<sup>7</sup>K. P. Mitra, 'Matters Criminal (from Behar Records)', *BPP*, 73, 1954, pp. 127-136.

<sup>8</sup>For depositions in the Magistrate's court at Tirhoot, see BCrJC, P/128/30, 14 Oct. 1796, no. 19. I thank Anand Yang for this reference.

records of English criminal justice and law suggest a mixed picture: while indigenous jurists tried in some instances, to absolve slaves from *tazeer* on the grounds of her 'minority',<sup>9</sup> the direction of change in the colonial courts appeared to have been towards removing such absolutions. On the other hand, the Company's regulations which prohibited *sati* did diminish the valorisation of the sacrifice of female slaves and concubines. Other regulations that disbarred justificatory pleas of adultery as grounds of murder, suggest that the *sharia* ideal may have been realised since in the Quran the 'infidelity' of the female slave/concubine deserved only half the penalty reserved for the free married woman. Yet, if one considers that in many instances, such female slaves were also 'married' to male slaves by their masters and mistresses, we have to wonder whether male slave-spouses, who tried to resist the poaching of others on their slave-mates,<sup>10</sup> actually bore the brunt of regulations like IV of 1822, which were specifically addressed to cases in which the *futwa* absolved the guilty slave from punishment.

Moreover, the intellectual and material origins of such regulation and their implementation seem worthy of renewed investigation. Particularly since the preservation of life appears as an extraordinary act of humanitarianism, such abolition of sacrifices are usually depicted as part of the colonial 'reformist' agenda. It is true that there are ample records of the anti-slavery agitation in England bringing regular pressure to bear on successive Governors-General between 1827 to 1853: one of the key letters of Thomas Fowell Buxton, to Bentinck, mentions 'suttees and infanticide' as a criminal waste of lives in Bengal.<sup>11</sup> Despite the sustained pressure of the Anti-slavery agitation upon individual Governors-General, it is difficult to record the translation of ideological imperatives into administrative fiat. While not arguing for the complete detachment of individuals from ideological motives, it appears illogical that the same abolitionist drive should have been so effectively resisted in the matter of abolition itself. In the period 1860-90, the same anti-slavery groups were ostracised by administrators in India when they launched an agitation against the pattern of 'army slavery' that I have highlighted in Chapter IV. Given an effective administrative resistance to abolitionist agendas, how can we explain the modification of the laws of murder and punishment? It is probable that a much more critical role was played by the declining supplies of exogenous slaves through 'legitimate' trade in the first half of the nineteenth century. This, coupled with the Company's growing demand for labour both within the colony, and its ability to supply labour to other colonies like Mauritius after its take-over in 1810, may

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<sup>9</sup>See case no. 660, Mr. Thomason against Mohammud Ally and Phini Slave Girl, in P/154/39; for similar absolution of a 12-year-old girl for cutting off the penis of the man she had been sold to, see **Juttee Ram v. Jye Munnee**, *RNA*, Vol. II, pp. 29-31.

<sup>10</sup>**Russoo v. Mohun Launda**, *RNA*, II, p. 67.

<sup>11</sup>Letter dated 22 October 1827, in Mss. Eur. E 424/1.



have created conditions within which the 'preservation' of life became an important aspect of mercantilist political economies. All of these pressures were manifest in the renewed pro-natalist emphasis that had led to the abolition of the marriage taxes in the 1770s. With the re-emphasis on the reproduction of slaves, related to the failure of the slave-populations in the West Indies to multiply at the rate of American ones, the preservation of the 'life' of the slave while closing all doors for her escape became evident.

Though there was an intensified natalism in the nineteenth century, the different modes of status-reckoning, as practised by British slave-holders themselves, set the seal upon effective jural incorporation within lineages and households. Standards of genealogical 'purity', seeping unacknowledged into the interpretation of indigenous practices, led to the bowdlerised 'Hindu' and 'Islamic' law which assumed substantive and reified proportions in the courts. These processes had both epistemological and social ramifications, for gender, community and family histories. At the level of ideological representation alone, a fluid and manipulable process was overthrown for a simple and fixed binary formulation comprising an antithesis between blood-related kin and servants. At the level of the social and material ramifications for gender, doctrines of legitimacy and proprietorship of wealth - from which slaves were theoretically excluded- substantially eroded the privileges and possibilities of negotiation not just for the slave-born, but also for their mothers and fathers, within every kind of corporate group. Thus though male slaves and slave-concubines were not to be counted as within the group of members sharing blood, the simultaneous remaking of the affective 'family' and 'kinship' relegated slaves and slave-born to regions beyond the boundaries of 'love'. The 'love' of a female or male slave, held on long lease or attached to the house in the second generation, became particularly a matter of shame, and disgust. Thus the hegemony's affective relationship with prostitution became a particular testing site for the redrawing of the family, while actual household-economies continued to thrive by the labours of slave-prostitutes. The reconstitution of consanguinous kinship and affective family began in earnest when various indigenous men began to address the conditions under which particular 'wives' were treated 'as chattel'. By the end of the nineteenth century, a *gestalt* switch in the epistemological field had become obvious: where kinship had been fraught, tense and metaphorical, and slavery real, now kinship was material and affective, and slavery alone metaphorical. In the process, slavery and gender became interchangeable signs; a matter merely of analogy. What was lost was the acknowledgement of the specific and significant contribution that slaves had made to the physical reproduction of wealth and power, as well as to the lineage, family and community structures of the region. The processes by which such labours by slave women were replaced by the labours of non-slaves, in turn, subverts the conventional representation of 'social' reform and legal interventions in India.

There are good reasons to probe the failure of historians in assessing these shifts.

Complicit in our blindness is the way in which 'productive' labour, or work, is conceptualised: it is related to our search for a political economy in which this productive labour is seen to be interrelated to an international economy. Since sexual and suckling labours are imagined, a priori, as the tasks of females and 'wives' whose condition by metaphor and analogy was associated with subordination, it has been hitherto easy to believe that colonial markets by gaining nothing from these labours, changed nothing either especially in the context of slavery. This has done injustice to both male and female slaves. Where male slaves were concerned, we have not investigated whether they were punished for living with non-slave females, or how acceding patriliney to such males could reproduce slavery; nor have we studied the sexual labours of male slaves within prostitution. As for female slaves, androcentrism was no monopoly of colonial officials: twentieth century historians have equally ensured that the contribution of female slaves should be completely swallowed up within the fate of males. In addition, since 'domestic' slavery is not seen to have produced exchange value, the physical production of lineage, and kinship, has been relegated to the boundaries of the 'social', and reserved as a ghetto for feminists to 'do'. Against those presumptions, this thesis has urged that the production of human wealth and the production of inanimate wealth was equally critical to most slave-holding households, and the state, in the nineteenth century. In sharp contrast to the hegemon and historians of the present day, male and female hegemon of the nineteenth century set a premium upon the reproductive-productive labours of female slaves,- as concubines to the male holders, as nurses for suckling the infants to be reared for the lineage, for earning incomes through the conveyancing of this reproductive ability to others as well from the hire of their embodied skills and services. In attempting to illuminate some aspects of this work of slaves within different domains of kinship-building, as well as profit-making under the aegis of colonialism, this study may have tended to err on the side of a static political economy even though circulation, and mobility, of slaves have been its guiding lights.

In the light of this predisposition, the inevitable question in the mind of the reader must be: from which direction did change come, and to what degree did colonial intervention change the contours of a slave-holding society? Contrary to the representation of colonial practice in India being directed from the metropolis, the various chapters have shown that colonial initiatives sometimes contradicted metropolitan ones (as in the case of the delegalisation of slave-transfers during the first half of the nineteenth century) and sometimes preceded and exceeded metropolitan laws (as in the case of the registration of slave-women and concubines, in the lock-hospitals, and in the recruitment of the concubines' children to creating a vast pool of differentiated labour). In this context, it was ironic that in 1876, Parliamentary Statute (39 & 40 Victoria) authorised the amendment of three relevant sections of the Indian Penal Code, 367, 370 and 371 to prevent further transfers and holding of slaves, and yet imperial armies in India continued to subsist on

the abrogation of these clauses.<sup>12</sup> It must remain for historians of the future to study the significance of the Indian model of slave-management to other British colonial administrations; to explain how many, like F.D. Lugard in Africa, or John Peter Grant and William Grey in Jamaica, had acquired their experience as administrators and officials in the Indian empire before their appointments elsewhere.

As far as the Company's territories in Bengal were concerned, colonial practice closely modelled its own on pre-existing structures, as it imagined those to be. Therefore, if the civil administration of the Company imagined the physically bounded zamindari-estate into being, its military arm materially constructed the cantonments as enclaves of extra-territoriality, where only the writ of the army commander was operable. In the process, colonialism at the end of the nineteenth century had acquired the attributes both of 'foreign' tyrant and homegrown pater familias. If indigenous masters and mistresses took up the forms and structures implanted by colonial administrators, the latter acquired this collaboration at a price - resemblance.

For these reasons, it is my argument that in assessing the ways in which the contours and outlines of a slave-formation changed, the final contribution was not of law, but of extra-legal institutions like those of the spiritual and religious worlds, and the result of the activity of the slaves themselves. Much has already been written about slave-resistance - the tiny acts of manipulation, sarcasm, and silence, as well as those portentuous ones closely scrutinised by the owners, like flight, poisoning and murder. However, resistance too was no simple matter. For every slave who helped another slave to run away, there were slaves policing other slaves on behalf of the master or mistress or acquiring other slaves for themselves or their masters and mistresses; for every slave who refused the visage of compliance, there were others who manipulated the very boundaries of 'belonging' that hegemonies and independent men and women were in the process of reifying. Thus in the nineteenth century all kinds of identity - family, caste, community - became simultaneously rife with contest, the renewal of boundaries, accommodation and exclusion. These processes were as much the result of trying to distance 'free' from 'slave' as they were the imprint of the corporate presence, the resistance, and the mobility of, different kinds of slaves.

Since resistance also wore the visage of forms of the dominant and independent, these individual and corporate acts posed serious problems to the latter (and to later historians). Unfortunately again, because slavery had been imagined as a problem in coercion and labour and not as a problematic dialectic between alienation and 'belongingness', the significance of religious and other hegemonic expressions of belonging (identity) for slave-resistance and slave-mobility

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<sup>12</sup>A *Collection of Statutes Relating to India* (Government of India, Legislative Department, Calcutta, 1881), II, pp. 1015-18.

is little understood. While this was probably important for a range of religious communities, it was particularly significant for an appreciation of Christianity and Islam. Much historical ink has been spilt on denying the connection between devout Islam and slavery; this denial is based upon the attribution of egalitarian desires to slaves, and the continuation of differentiation within the Islamic congregation. Yet, evidence of the desire for 'egalitarianism' in the breast of slaves is yet to be established. On the other hand, the physical presence of slaves within the Islamic fold is undeniable. Explaining the latter requires imagining the *jamaat* (or brotherhood) as an experience in belonging **with** a wider group, and not **to** a household alone. Belonging with a devotional group may in fact have compensated for the absence of other corporate identities and networks. In fact, especially after the 1870s when a classicisation of Islamic practice occurred in Bengal, the promise held out by the Quran, not of material egalitarianism, but of spiritual freedom to slaves in return for devoted service to earthly and divine masters became a very real possibility.

Furthermore, religious beliefs and the moral economy had had a subtle and long relationship with issues of the political economy within which slaves found themselves. In a context where the bestowal of the peculia, especially inherent in immoveables like land and buildings by the slave, or ex-slave, was denied by erstwhile owners, the gifting of little parcels of income/lands/slaves to a God/ Supreme Being could inflict temporal masters with partial deprivation, and reserve for slaves a tiny portion of the gains of their labour in the form of the deference of the populace that prayed at these shrines. It was one form of being remembered, in a social formation which paid homage to ancestors. By the act of donating from their own peculia to a higher God, successful slaves salvaged some pride and dealt a blow to the masterly conceit that slaves wanted only to 'receive' goods, maintenance, money.<sup>13</sup> The establishment of mosques and madrassahs on specific grants of lakhiraj land for religious and charitable purposes was a strategy many a master would have found hard to contest. As the disposition of the eunuch Bussunt Ali Khan revealed, such donations for spiritual benefit were important to slaves. Marmon's study of the association of particular eunuchs with the Prophet's tomb at Mecca and at Madina, representing an elevation whereby senior eunuch 'servants of the earthly prince' became freedmen servants of a more exalted order, has a bearing for conditions in India. By the same token, lakhiraj tenure-holders in slave-holding households like Murshidabad, Dacca and elsewhere often had the prior jural status of slave-servant of an earthly master, who had moved to the service of a higher god: something not yet thoroughly examined by historians of endowments in colonial India.<sup>14</sup> Furthermore, the evidence from the Nizamut suggests that not

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<sup>13</sup>See Carl F. Petry, 'From Slaves to Benefactors: The Habashis of Mamluk Cairo', *Sudanic Africa*, 5, 1994, pp. 57-66.

<sup>14</sup>See Gregory C. Kozlowski, *Muslim Endowments and Society in British India* (Cambridge, 1985).

only were the slave-*chelas* trained by particular eunuchs reassigned as servants to shrines, but that the major issue for such servants then became the assumption of authority as freedmen proprietors of those lands which yielded revenues for the maintenance of the shrine itself. On the death of the father/ original owner of Babbu Begum, the latter assigned one male slave as *mujawir* (lit. fixed to the temple) and five as *karees* to the tomb of Mahomed Samen Khan. For the maintenance of the servants of the tomb, she purchased five beegahs of land which formed a part of the Nizamut Gunjeeyat. By 1844, however, the heir of the deceased man, Amir Ali Khan, reported that the *mujawir*, apart from a 'want of respect' to the heir of the family, had begun to conceive 'that he is the real owner of the land and as such perfectly independent. Instead of reserving a part of the proceeds for repairing the tombs, he spends the whole as if ... he is answerable to no one for his acts' while continuing to receive a monthly sum of Rs. 28 from the deori of Amirunnissa Begum.<sup>15</sup>

If this was true of slave men and eunuchs, it was also true of female slaves. Pilgrimage, as well as service at shrines and tombs associated with erstwhile masters, were important to concubines and other slaves. However, since the issue of female service at temples attracted special attention and vilification in the twentieth century, attempts to investigate the interlinkage between manumission and service to a higher god run the risk of crude simplifications. Nevertheless, where female slaves were themselves 'gifted' to a god, there too the metaphor remained that of affinity and marriage. Female slaves were described as having been 'married' to the deity. This phenomenon, well studied now by Marglin and others,<sup>16</sup> appears to have been common to the Muslim syncretic tradition in inner Bengal as well. At least all the *sukris/chhokris* who were rounded up in the course of an investigation into 'mock marriages' in 1872, proclaimed that they had been married to Gazee Meah, a bamboo pole worshipped as a deity in Bankura: this marriage, they believed, removed them from mortal machinations. 'It would be a great sin for us to marry a man', as one of them put it.<sup>17</sup> Celibacy, and alms-collecting, that such ceremonies committed the seven - and - eleven - year - olds to, appeared to have called forth special enactments to stop such marriages. Yet like so many other colonial gestures of this kind, such proclamations missed the more fundamental changes occurring in the metaphysical and religious worlds of many men and women in Bengal from the seventies. That was part of the story of classicisation of Islam in Bengal, a process wherein the moral imperatives of Quranic prescription about the manumission

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<sup>15</sup>Amir Ali Khan to AGG Maj. Gen. F.V.Raper, 12 July 1844, *MNLR*, II, p. 495.

<sup>16</sup>F. A. Marglin, *Wives of the God-King: the Rituals of the Devadasis of Puri* (Delhi, 1985); Janaki Nair, 'The Devadasis, Dharma and the State', *EPW*, 29, 50, 1994, pp. 3157-67.

<sup>17</sup>Cited in Report by W.L.F. Robinson, Commsr. of Rajshahi, 2 Aug. 1872, *WBSA, Judcl.*, Oct. 1872, nos. 95-97.

of slaves, the proscription of putting female slaves to work as prostitutes for the profit of their holders, and advice to poor men to marry such freed female slaves was propagated by itinerant and poor maulvis and translated into the everyday actions of small knots of rural Musalmans. By the end of the nineteenth century, the movement to 'purify' Islam of deviations from Quranic law impinged centrally on the definition of *nikah*. All these re-definitions were critical particularly for female slaves. For instance, in 1906, Maulvi Samiruddin had preached that 'the practice of Hindu zamindars of keeping prostitutes in the bazars was a bad one, and someone had retorted that the prostitutes were all Muhammadans. He had replied that disgrace should be removed from the Muhammadan community, and the women should be taken away and married'.<sup>18</sup> A spate of manumissions, without payment of the customary ransom, appear to have occurred, which colonial officials reported as the actions of 'low-class Muhammadans' removing ('took away') and forcibly releasing Muhammadan 'servants' from their Hindu masters, including 'prostitutes' from the *hat* of the *taluqdars* of many sub-divisions of Bengal, like Mymensingh, Bakarganj, Rangpur. Or as in Jamalpur in April 1907, buildings that encapsulated all aspects of a political economy based on female slave-use and hire, the *nachghars* (halls of dance) itself, were demolished at fairs (*melas*) and bazars belonging to various under-tenants and zamindars. However, since many of the latter had also begun to dominate the institutions of the police and the judiciary, these forcible manumissions increasingly became part and parcel of the growth of communal and nationalist politics in Eastern India through the stereotype of the 'rapacious' Muslim male *budmash*.<sup>19</sup> Such contests were heir to a long tradition of slave-enticement cases of the eighteenth and nineteenth centuries. Though framed as contests between volition (of the female) and coercion (by males), they were principally about belonging, about identity, and about status. Did a slave-woman belong with, or did she belong to, the newly emergent fundamentalist religious and corporate bodies?

Obliterating the differences in law had left these issues to be resolved elsewhere - in ritual observances, in naming practices, in behavioural and sartorial symbols. While many slave wives, concubines and prostitutes embraced these signs as markers of belonging within, perhaps in the acute consciousness of the absence of blood-related affiliations in the face of a renewed arrogance around pedigree, to the lawyers, administrators, ethnologists and other hegemonics policing the boundaries, these attempts were always suspect - unless premised upon acknowledgements of their belonging 'to'. On these terms, such hegemonics had no problem in exacting obedience to the new

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<sup>18</sup>Magt. of Mymensingh to Commr., Dacca Divn., 1 June 1906, in L/P&J/6/826, file 3081, Enclosure 1.

<sup>19</sup>Pradip K. Datta, 'Dying Hindus': the Production of Hindu Communal Common Sense in Early 20th Century Bengal', *EPW*, 25, 1993, pp. 1305-19; Ritu Menon, 'Recovery, Rupture, Resistance: Indian State and Abduction of Women During Partition', *EPW*, 28, 27, 1993, pp. WS2-WS11 and Urvashi Butalia, 'Community, State and Gender: On Women's Agency During Partition', *ibid.*, pp. WS12-WS24.

revivalist and purified creeds, or in collaborating in the profit-earning aspects of slave-labour, or in the eventual pauperisation of slaves themselves.

At this moment in the history of the region, when one hears much talk of a uniform civil code, it is necessary to remind ourselves that what is being battled with are 'personal laws' born after peculiar gestations. To reserve venom for fundamentalist Islam, or Christianity, is to ignore a wider historical dilemma faced by many text-based and organised religions, satisfying the yearnings of slaves and ex-slaves, as well as providing legitimation to their masters. To understand that historical condition within which revivalist and fundamentalist faiths grew in nineteenth century India, historians are called upon to unwork a history of slavery from within the palimpsest of genealogy, family and kinship, and to rework the hard labour of sexual reproduction into assessments of historical labour systems. What is needed is not so much a history from below, but a history from within, a history of exile from natalities and the recovery of belonging, a history in which nothing was too ephemereal and no grain of sand - the annas and pice of a slave-girl's peculium, or the petty fines paid by a slave-concubine - too tiny to make up the bedrock of a colonial empire.





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## Document I: (English text of the deed)

In consideration of the sum of Eight Arcot Rupees/ aRs. 8 to me in hand paid, I Jumat Cawn Haoldar of Calcutta do hereby make sale Assign and Deliver and do by these presents forever quit Claim of my Slave Boy named Dowlat about Nine year unto Mr. Lochemey, In witness whereof I have here unto Set my hand, In Calcutta Collector's office this 10 day of November 1764.

Registered by (Signature illegible)

Collr.

The Bengali text refers to this document as *bikrayapatram* (document of sale), and to the subject of the transaction as *amar kharida ek chhokra naam dowlut boyesh noye bochhor*, specifying age, name, and the mode in which the seller had acquired the slave. The Bengali text also refers to the volition of the seller, as well as a guarantee on behalf of the seller's heirs and descendants : *ami apon khosh bechai tomar sthane nogod dokkhino arkat at taka paiya bikroye korilam... ei chhokrar shohit amar kono dawa nai... ami o amar waris keho dawares ebong dawadar... ei bayane ...* (I have voluntarily sold to you for the ready money of eight Arcot Rupees... relinquishing all claims upon this slave/chhokra... on behalf of my self and my heirs and successors hereafter)

## Document II. (Translation)

The slave girl named Jasanti of Mossuier Lasina (*Jasanti nami chhokri*) has run away from here and gone to Calcutta, where some gentleman has taken her into his service (*ba kar muqarrar kardid hast*). Daud Firangi has gone there to search for the above mentioned slave-girl (*chhokrimazkur*). If after the recovery of the girl, any of the claimants / creditors\* (*bawran*) put up objections, those should be warded off; the claimants/creditors (*bawran*) should petition here.

\* A word in the second line of the document which could be read as *rahan* suggests the possibility that the slave-girl had been mortgaged, or pawned.

Source: OIOC, Mss. Eur.F.193/45, no. 5. (Verlee Collection).

**Table I : Decisions in enticement.**

Number and date.	Prosecutor	Prisoner and charge	Sentence by Daroga and Maulavis of the Faujdari Adalut
14 March, 1774 no. 363.	John Baptiste	Durbaree & Betty, for enticing away and selling the plaintiff's slave-boy.	Durbaree sold the boy to Betty. Durbaree to receive 5 Corah and return the boy.
12 April, 1774 no. 408	Sunker	Goupie, Ramkishore and Issery, for enticing away the ptff.'s slave-girl.	Issery found guilty, ordered to receive 10 'shoes', Goupee and Ramkishore not guilty.
20 April, 1774 no. 422.	Johanna	Bockull, for enticing the ptff's slave-girl.	Not guilty. The Girl went away of herself. Ordered she receive 10 'latts'.
9 May, 1774 no. 460.	Ramcumar	Ariff, for enticing Golaf the slave-girl.	Proved that Ariff enticed away Golaf, ordered to be punished with 30 latts round the Town & repay what Jewels were in Golaf's possession. Golaf to receive 10 latts.
28 May, 1774 no. 501.	Thomas	Sirdar Bearer, for enticing away ptff.'s slave-girl.	Proved. To receive 15 Rattans.
12 June, 1774 no. 530.	Mahmud Warris	Chanulla & Sunulla, for enticing way the ptff's slave-girl.	Chunulla to be confined 10 days, Sunulla to receive 10 latts.
29 June, 1774 no. 556.	Totteram & Salemon	Mohon Singh, for running away with the ptff's slave-girl.	To be punished with 5 'Chabucks' and to return the girl in 2 days.
20 July, 1774 no. 603.	Taramunny	Neerusam, for taking the ptff's slave-girl.	The girl belongs to the defendant. Ordered that he give the plaintiff 10 Rupees & the jewels the girl had.
24 July, 1774 no. 612.	Syabcawn	Callee, for enticing away ptff's slave-girl.	Guilty- to be punished with 15 Rattans.
23 Aug., 1774 no. 688.	Mr. Petrie	Joanna & Emamdie, for enticing away ptff's slave-girl	Emamdie to be punished with 15 Rattans round the town, Joana to be confined in Bridewell during the ptff's pleasure.
10 Sept., 1774 no. 720.	Treasa	Suda Cawn, for enticing away ptff's slave-girl.	To be punished with 5 Rattans.
29 Oct., 1774 no. 802.	Chandah	Ramnarain doss, for taking the ptff's slave-girls.	Proved the Girls is the Defendant's Property. Ordered he have them.
31 Oct., 1774 no. 806.	Totteram	Cunchee, for taking away the ptff's slave-girls.	It appears the slave girls belong to the ptff's wife. Ordered the Defendant to return the slave girls to the ptff. as his wife's property.
23 Nov., 1774 no. 822.	Cornee	Tilleram, for enticing ptff's slave-girl.	Ordered prisoner 5 'shoes'.

Number and date.	Prosecutor	Prisoner and charge	Sentence by Daroga and Maulavis of the Faujdari Adalut
6 Dec., 1774 no. 835.	Daniel Empson	Tom, for enticing away plttf's slave-girl.	Not guilty. It appears the Girl was running away of her own accord. Ordered her 3 lashes.
28 Dec., 1774 no. 858.	Goverdon Tagoor.	Ramdoss & Biragees, for enticing away plttf's slave-girl with jewels and goods.	It appears that 5 Bairagues were kept in the plttf's house in his absence by plttf's mother & the defdt. was security for them, that they ran away with the plttf's Girl & goods. Ordered the defdt. to produce the offenders.
29 Dec., 1774 no. 862.	Annoo	Tibboo & Suruboy, for enticing away plttf's slave-girl.	Not guilty - appears that Tibboo is the plttf's slave, and that Saruboi is her godfather therefore acquit him; ordered the plttf. to produce the slavery paper in which have no mention of her name or those of her Father and mother- She is ordered to return to her godfather and remain a free woman.

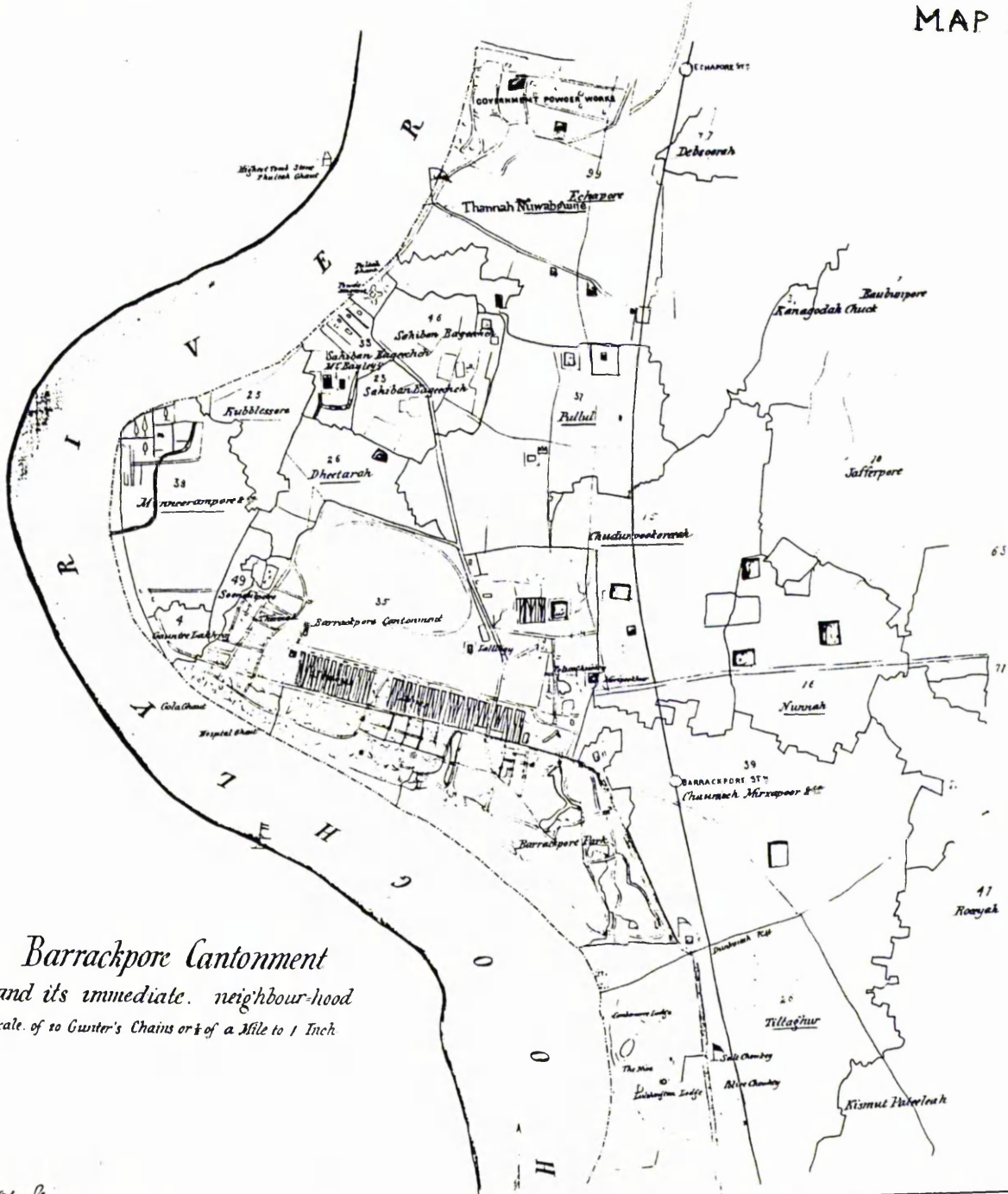
Source: Proceedings of the Faujdari Adalut for 1774, P/154/39.

**Table II : Decisions of entitlement**

Date and Number	Prosecutor	Defendant and charge	Sentence by the Faujdari Court
Jan. 1774, no.250	Jumuna	Mogalishram, for taking her son.	Proved that the plttf. sold the child to the defdt.- ordered that the defdt. shall have the boy.
4 March, no. 344	Sookmoy	Anundee, for endeavouring to make the plttf. a slave	Proved that the plttf. is defdt.'s slave
31 March, no. 398	Conchunni	Moiias, for making the plttf. a slave	Proved that plttf. is defdt.'s slave-ordered to go to his house.
31 March, no. 400	Tattoo	Zettoo, for endeavouring to make the plttf. a slave.	The plttf. is not the defdt.'s slave to go where he pleases.
3 Aug., no. 636	Tom	Duneego, for making the plttf. a slave	The plttf. is the defdt.'s slave, ordered to go to his master.
6 Aug., no. 649	Cammoo	Peggy, for taking the plttf.'s wife.	The woman is the defdt.'s slave & not the plttf.'s wife. Ordered that the defdt. have her.
7 Sept., no. 713	Caundoo	Sorphon, for not staying in the plttf.'s house.	The defdt. was the plttf.'s slave but agreed with her master to pay him Rs. 200 for her liberty to which Bargain he also agreed. Ordered to pay Rs. 200 and she to have her liberty.
26 Oct., no. 796	Sonamuckee	Rotton slave, for running away.	The defdt. is not the plttf.'s slave. Ordered the plttf. to pay Rs. 26 to defdt. and go where she pleases.

Source: Compiled from Progs. of the Faujdari Adalut, 1774, P/154/39.

MAP I



*Barrackpore Cantonment  
and its immediate neighbourhood*  
Scale of 20 Gunter's Chains or  $\frac{1}{4}$  of a Mile to 1 Inch.

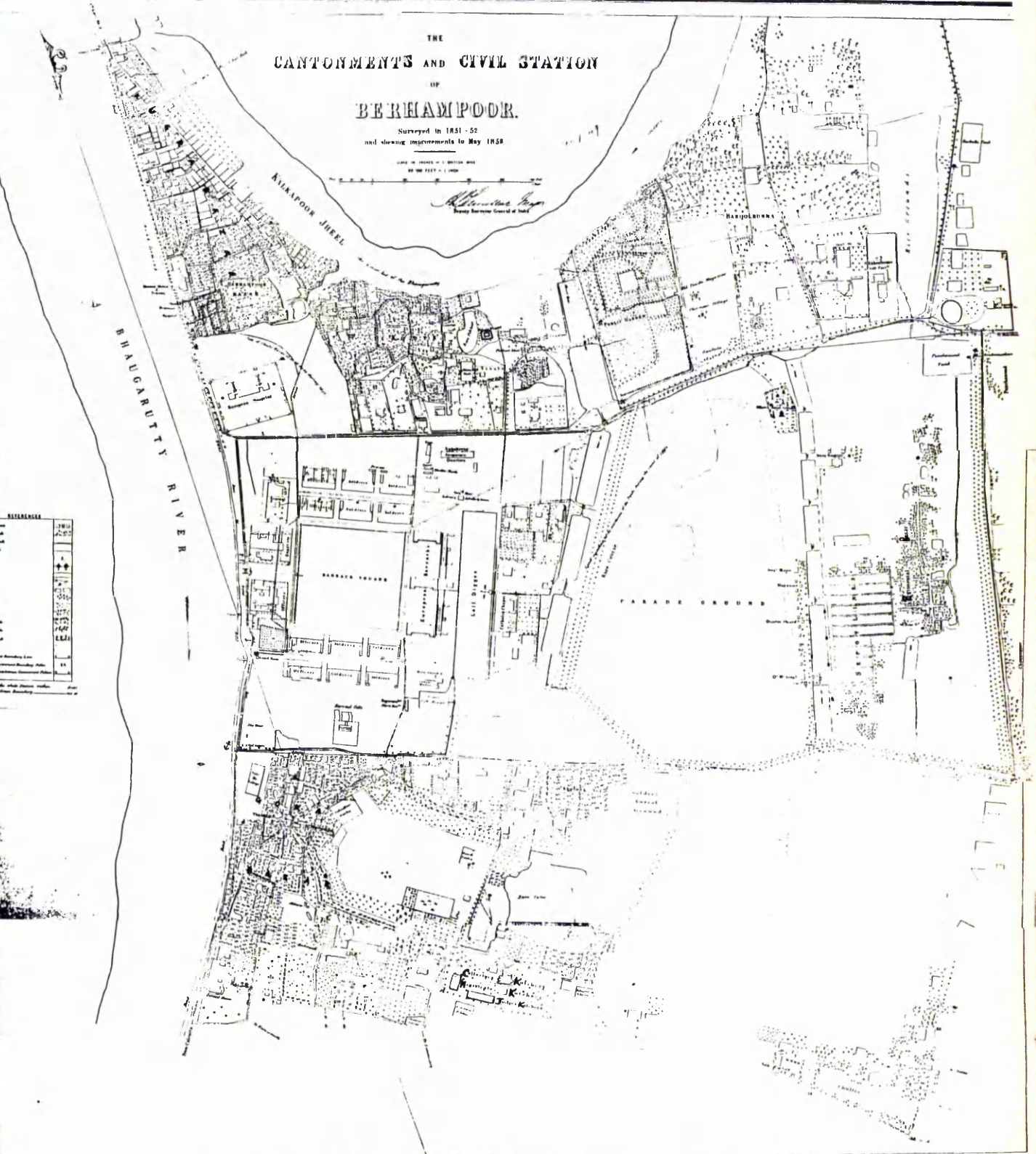
*W. H. Stiles*  
1871/2

THE  
CANTONMENTS AND CIVIL STATION  
OF  
BERHAMPOOR.

Surveyed in 1851-52  
and showing improvements to May 1858

Scale in Chains = 1/25000  
or 100 Feet = 1 Inch

*Alfred Hoare*  
Surveyor General of India



SUPPLEMENTED UNDER THE SUPERINTENDENCE OF CAPT. W. A. GERRARD, SURVEYOR GENERAL AND ASSISTANT, IN 1861; OF THE IMPROVEMENTS BY CAPT. JAMES L. GASTELL, SURVEYOR GENERAL, IN 1858.

MAP II

Map for Sept 1864.  
No. 109.

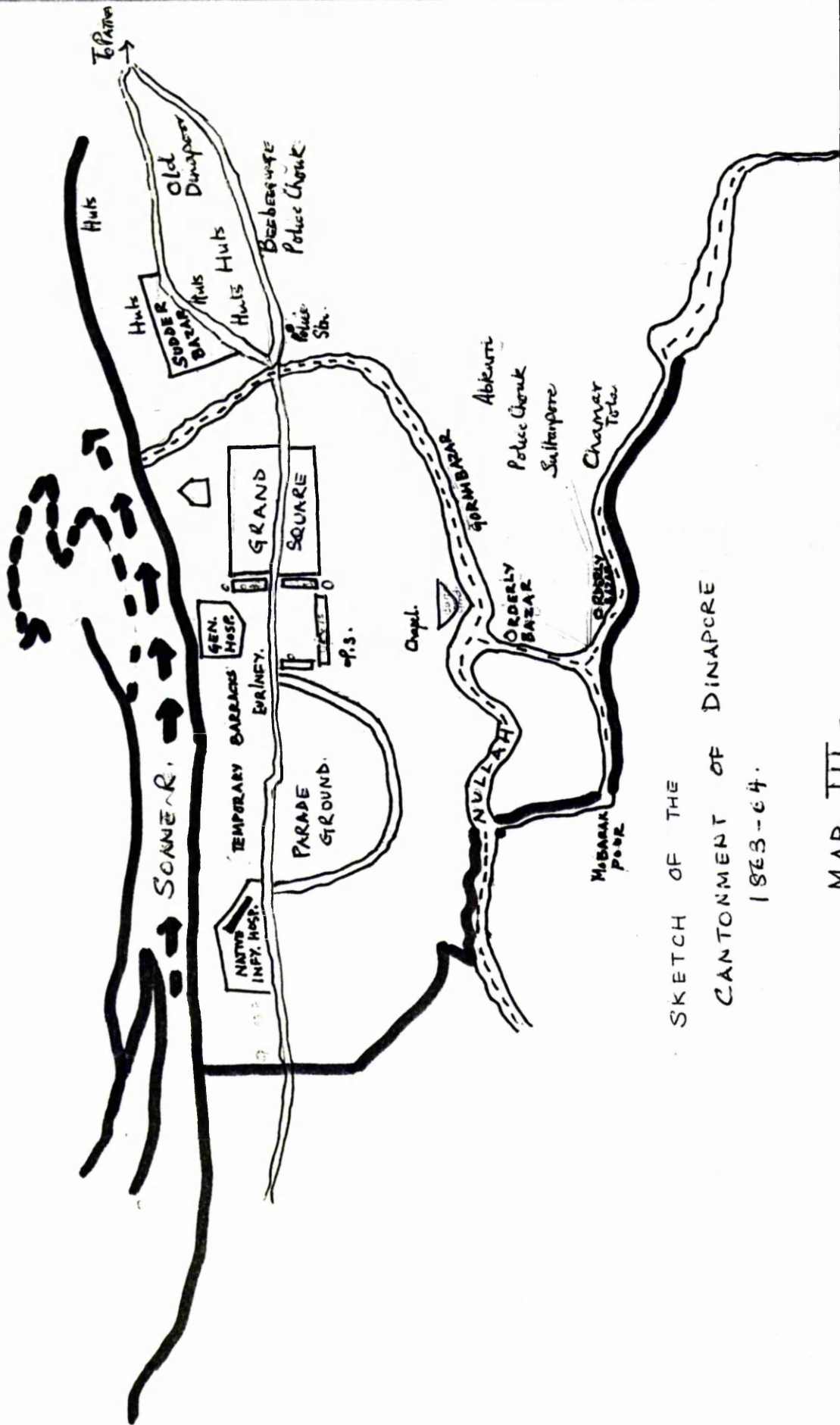


MAP III

The blue line marks a distance of 7 miles from Singapore government boundaries to the north, to which it is proposed to extend the jurisdiction of Section 29 of Act 10 of 1857.

Surveyed by J. Thomson.  
Singapore.





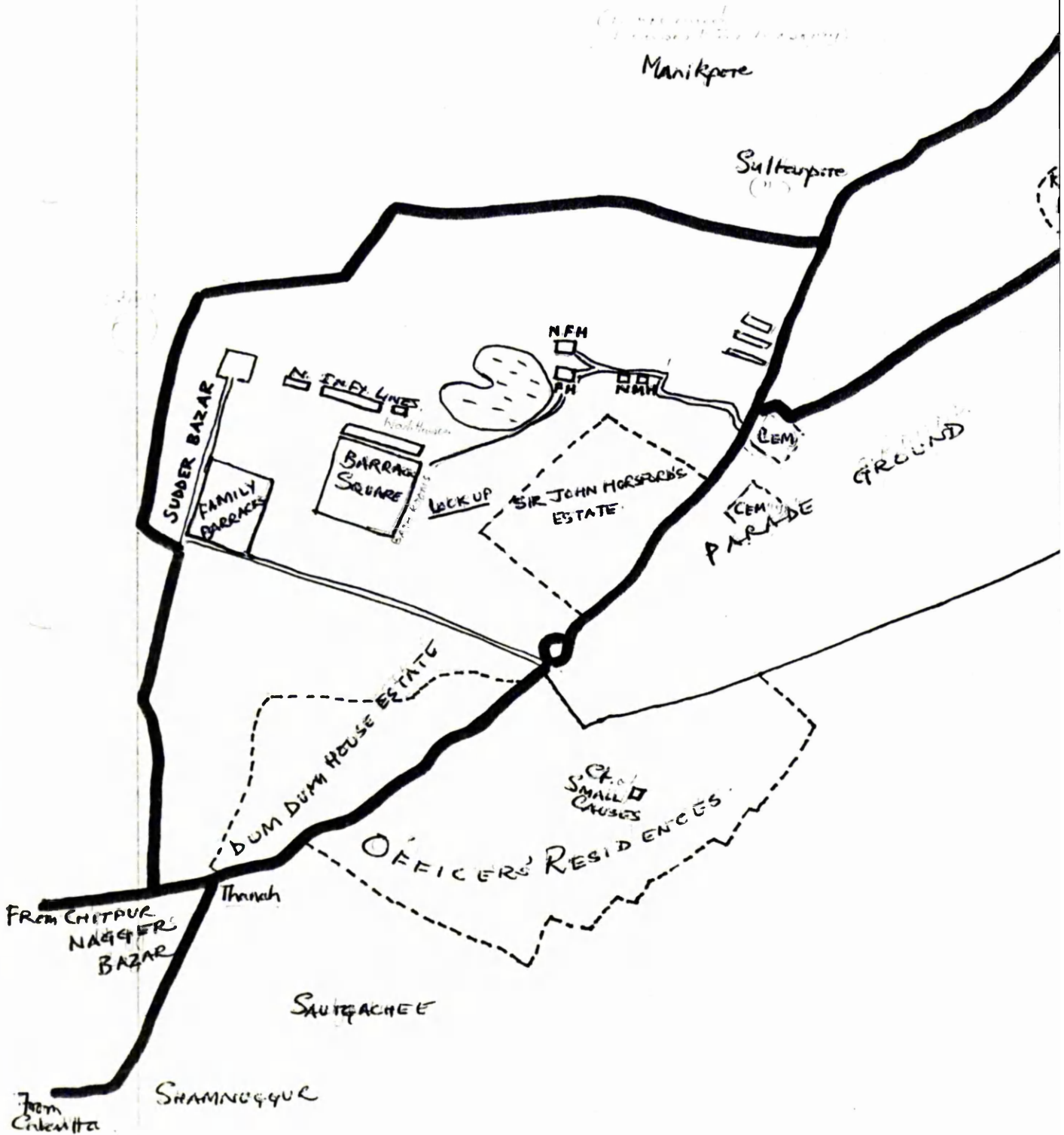
SKETCH OF THE  
CANTONMENT OF DINAPORE  
1863-64.

MAD TIT



MAP IV a.

SKETCH OF THE  
CANTONMENT OF DUMDUM, 1863-70.

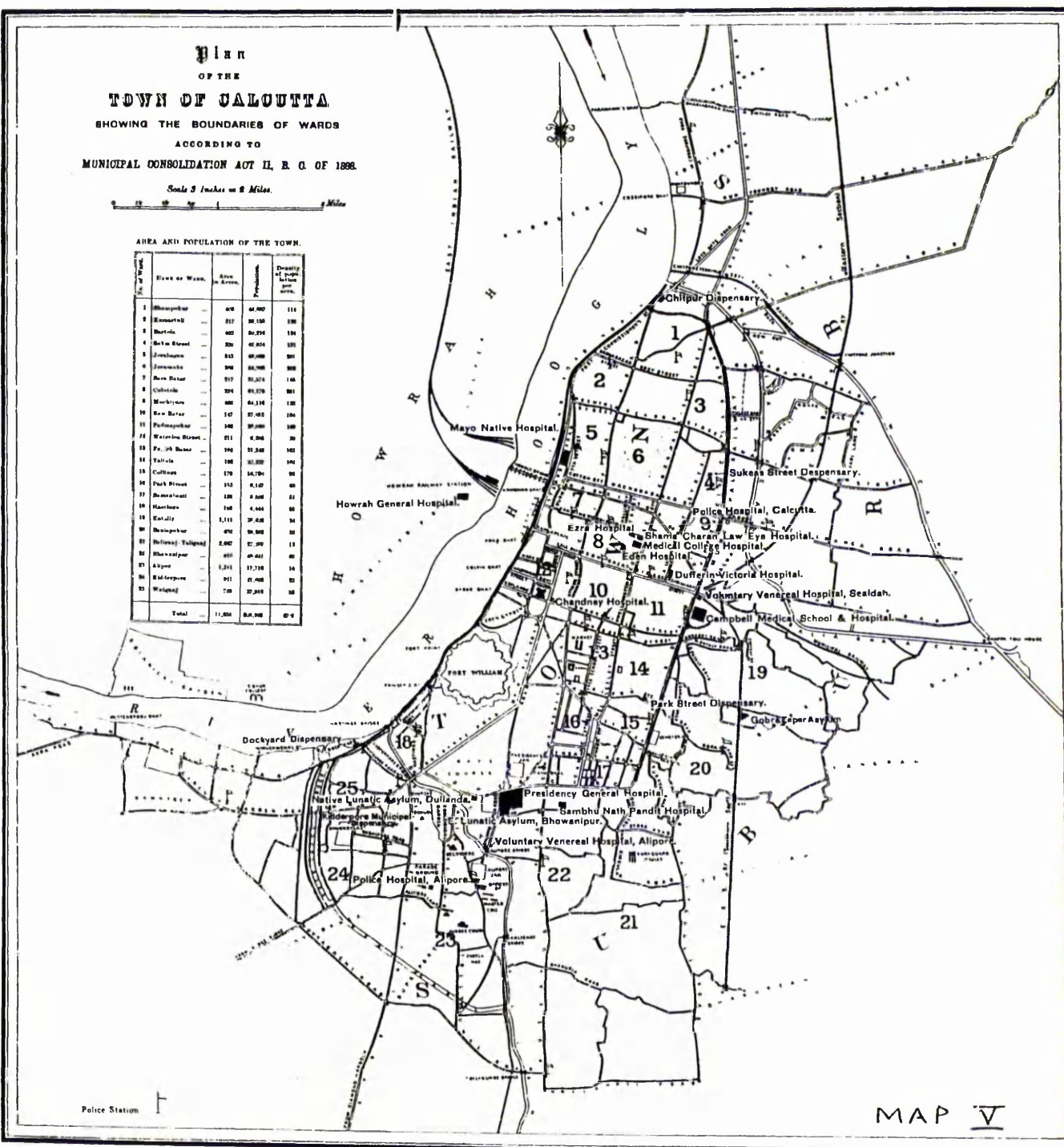


**Plan**  
OF THE  
**TOWN OF CALCUTTA**  
SHOWING THE BOUNDARIES OF WARDS  
ACCORDING TO  
MUNICIPAL CONSOLIDATION ACT II, R. G. OF 1898.

Scale 3 inches = 1 Mile.  
g Miles

AREA AND POPULATION OF THE TOWN.

No. of Ward	Name of Ward	Area in Acres	Population	Density of population per acre
1	Chinapukur	478	64,707	135
2	Esplanade	217	35,158	162
3	Barabazar	402	60,274	150
4	Barabazar	202	45,624	226
5	Chinapukur	313	49,000	156
6	Chinapukur	304	58,708	193
7	Barabazar	217	35,274	163
8	Chinapukur	304	61,378	202
9	Chinapukur	400	64,314	161
10	Barabazar	147	27,403	186
11	Chinapukur	340	59,000	173
12	Victoria Street	211	4,206	20
13	Victoria Street	140	31,500	225
14	Victoria	100	15,000	150
15	Victoria	170	14,700	86
16	Park Street	113	8,107	72
17	Howrah Road	120	4,464	37
18	Howrah	108	4,464	41
19	Kolkata	1,111	29,428	26
20	Chinapukur	470	58,300	124
21	Belur Math	8,002	57,200	7
22	Howrah	891	49,441	55
23	Alipore	1,201	17,718	14
24	Alipore	901	21,400	23
25	Waldapukur	720	37,000	51
Total		11,200	808,000	72



Police Station T

MAP V

Map of the City of Calcutta, prepared by the Survey of India, 1901.

## *Appendix III*

### Section I.

#### **Evidence of a co-relation between real estate mentioned in wills of *raurs* and social geography of northern parts of Calcutta comprising Sections E and F under Act XIV:**

1828- L/AG/34/29/42, I, pp. 81-92: Doorgamoney Raur leaves two cottahs of pottah land with house in Banstolla Gully, Burrabazar, as repayment of debt of 1500 rupees, to Juggernath Prasad Mullick.

Ditto, pp. 105-112: Radamoney Raur leaves upper roomed brick built house with land at Banstolla Gully, formerly belonging to Cossinath Mullick, to Deby Singh jemadar and his adopted son, Gopal Singh.

1840- L/AG/34/29/62, II, pp.115-20: Rausmoney Raur leaves two 'Upper-roomed brick built houses situated at Sicularparah Street, no. 18 together with three cottahs of land' and a garden at Bagmaree containing four biggahs to Beerchund Dutt, Collypershaud Dass and Beelasmoney Raur.

1844- L/AG/34/29/69, I, pp.337-343: Surno Raur who rented a house in Baurtolla [sic] Street in Mechuabazar leaves her jewels and household furniture to Juddonauth Mundle 'by whom I have been maintained and protected'.

Ditto, I, pp. 369-78: Woodoycomaree Bewah leaves 'my Puckah two storied homestead, containing two cottahs of land under pottah in my own name, situate in Haurkattah Gully', Shampukur thana, to Neelambor Bandopadhyay, who is to act in concert with Daibnarain Mookhopadhyaya of Bhowanipur.

Ditto, pt. II, pp.385-390: Fulmoney Raur leaves 'dwelling homestead' within Jorasanko, bounded by Chitpur Road on the east, and by Purnochondro Paul's house on the west, to Baineemadhob Kor Baboojee.

Ditto, II, pp.395-400: Puddo Raur leaves 'upper roomed brick built house with three Cottahs of land... situate at Chorebagan' to Govindohurry Burrat, mooktar in the service of Coomar Krishnenath Roy, and another upper roomed brick built house in the same place to Hurrinath Burrat, the son of Gobindohurry, and his heirs.

1847- L/AG/34/29/76, III, pp. 181-86: Golokmoney Raur leaves her 'batee or homestead' at Pauchy Dhobani Gully, mortgaged with Ramchondro Mullick.

1854- L/AG/34/29/89, I, pp.1-10: Podomoney Raur leaves 'self-acquired Dwelling House, no. 5/1, Sonagachee, to Gooroodass Rokheet.

1857- L/AG/34/29/96, IV, pp.7-14: Rajcomaree Raur, leaves house purchased in 'my own

name in Koberdanga' Mechuabazar to Sibchunder Dass Bairagi.

1864-L/AG/34/29/109, II, pp. 338-352: Ruttonmoney Dossee Raur bequeaths upper-roomed brick built messuage tenement or Dwelling House with the piece or parcel of ground on part of which it is erected, containing approx. 2 Cottahs and 4 Chittacks, at 12 Haurcottah gully, Mullinga, to Ramdhone Chuckerbutty, her 'Guru' and his heirs, and to Sibchunder Banerjee.

## Section II.

### **Inventory of Properties in Calcutta belonging to Raja Radhakanto Deb, circa 1870.**

1. A moiety of Taluk Mouzah Sutanuti Bagh Bazar in the town of Calcutta.
2. The family dwelling house including the Thakurdalan, the Navaratna and Natmandira, the Baitakhana, the garden called Gobinda bagan attached thereto all which pass under the designation of the old Rajbari situated on no. 34 Raja Nabakrishna Street at Sobha Bazar in the town of Calcutta.
3. Premises of No. 1/1 Chitpore Road.
4. Premises of No. 129 Chitpore Road.
5. Ditto of Nos. 135-139 ditto.
6. Ditto of No. 141 ditto.
7. Ditto of No. 144 ditto.
8. Ditto of No. 248 ditto.
9. Ditto of No. 46/3 Shambazar Street.
10. Ditto of No. 46/6 ditto.
11. Ditto of No. 51 ditto.
12. Ditto of No. 53/3 ditto.
13. Ditto of No. 83 ditto.
14. Ditto of No. 117 ditto.
15. Ditto of No. 121 ditto.
16. Ditto of No. 9/2 Kumartuli Street.
17. Ditto of No. 9/3 ditto.
18. Ditto of No. 9/4 ditto.
19. Ditto of No. 9/5 ditto.
20. Ditto of No. 10 ditto.
21. Ditto of No. 22 Kassimitter's Ghat.
22. Ditto of No. 1 Mechuabazar Street.

23. Ditto of Nos. 110-12 ditto.
24. Ditto of No. 74 Maniktolla Street.
25. Ditto of No. 1/1 Baitakhana Street.
26. Ditto of No. 6/1 ditto.
27. Ditto of No. 27 ditto.
28. Ditto of Nos. 23 & 23/1 Raja Nabakrishna Street, except such portions of these two premises as were given to the sons of his three daughters by deed of gift dated 21 Falgun 1263 B.S.
29. Ditto of No. 27/4 Raja Nabakrishna Street.
30. Ditto of No. 26/7 ditto.
31. Ditto of No. 33/1 ditto.
32. Ditto of No. 36 ditto.
33. Ditto of No. 6 Kumbulitollah Street.
34. Ditto of Nos. 10-12 ditto.
35. Ditto of No. 14 ditto.
36. Ditto of No. 3-3/1 Shampookur Street.
37. Ditto of No. 4 ditto.
38. Ditto of No. 12/17 ditto.
39. Ditto of No. 12 Balaram Ghosh Street.
40. Ditto of Nos. 32-33 Hathibagan Street.
41. Ditto of No. 73 Cornwallis Street.
42. Ditto of No. 49 Sikdarbagan Street.
43. Ditto of No. 13/12 Kolutollah Street.
44. Ditto of Nos. 67-8 Upper Circular Road.
45. Ditto of No. 31/4 Kaliprasad Dutt Street.
46. Ditto of No. 1 Turreapukur Street.

Source: OIOC, L/AG/34/27/177, pp.99-100.

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