

DID ‘UMAR IBN AL-KHAṬṬĀB ACT AGAINST ISLAM: BANŪ TAGHLIB TRIBE AS A CASE STUDY

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Abstract

It was common practice for Muslim conquerors to negotiate pacts and treaties with conquered peoples. These treaties were quite similar in structure and content and reflected a spirit of tolerance towards non-Muslims. They consisted of three main elements: safety for their persons, property, and an assurance of freedom of religion. The simplicity of these agreements changed dramatically with the promulgation of a controversial agreement known as the Banū Taghlib peace treaty. This article is an attempt to present a critical analysis of the historical narratives of Muslim and non-Muslim scholars regarding Banū Taghlib treaty. It will also be an elaboration to the degree of tolerance attributed to Caliph ‘Umar. Finally, this article will try to answer the following questions. Were the tribe of Banū Taghlib really exempted from paying the jizyah? Were they prohibited from baptising their children? Is it true that ‘Umar instigated those conditions?

Keywords: ‘Umar Ibn al-Khaṭṭāb, Banū Taghlib, peace treaty, Early Islamic History, Tolerance.

Introduction

According to Muslim belief, the call of Islam must reach everybody.¹ Therefore, Muslim conquests and the spread of Islam in and outside Arabia were merely a fulfilment of divine command. It was common practice for Muslim conquerors to negotiate pacts with conquered peoples. The outcomes of these negotiations were treaties that were quite similar in structure and content and reflected a spirit of tolerance towards non-Muslims. They consisted of three main elements: safety for their persons, property and holy places, and an assurance of freedom of religion. These guarantees made it clear that the lives, property and religions of non-Muslims would be protected from any kind of interference; that churches, synagogues and other places of worship would not be demolished and there would be no encroachment on areas near holy places. Freedom of religion was guaranteed in the stipulation of no compulsion in respect of religion.

The simplicity of these agreements changed dramatically with the promulgation of a controversial agreement known as the Banū Taghlib peace treaty. Clearly, the treaty with this was completely different from the others in content and length.

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¹ Qur’an, *Saba*: 28.

Moreover, it contained a number of conditions, rules and penalties that were unfamiliar to the teaching of Islam and did not conform to the sort of treaties that Muslims used to issue to non-Muslims.

The peace treaty with the Christian tribe of Banū Taghlib is one of the important events that highlight the treatment of non-Muslims during Caliph ‘Umar Ibn al-Khaṭṭāb’s reign. It has been referred to by a number of jurists, historians and orientalist, who have concluded that the document issued to the Banū Taghlib was the work of ‘Umar.²

A discussion of it requires answers to the following questions. Is it true that ‘Umar instigated those conditions? Were the Banū Taghlib really exempted from paying the *jizyah*? Were they prohibited from baptising their children? It should be borne in mind that the attribution of the treaty to Caliph ‘Umar was derived from different texts, such as those of Abu ‘Ubayd, Abū Yūsuf, al-Balādhurī, Yahyā Ibn Ādam and others. Their narratives were in the form of a discussion between Caliph ‘Umar and his companions about the Banū Taghlib, in particular their geographical location, as they were a powerful tribe, and what Muslims could offer to avoid antagonising them.³

It is also important to explain the circumstances of this peace treaty and the need to impose such conditions. Al-Ṭabarī reports that in the year 17 AH/ 638 CE an expedition under the leadership of al-Walīd Ibn ‘Uqbah set forth from Madinah to continue the conquest of the Arab peninsula. The expedition passed through several regions until it reached the lands of the Banū Taghlib, where it found that many of the tribe had already left and sought refuge within the Byzantine Empire. When Caliph ‘Umar was informed of this he wrote to the Emperor demanding their extradition, otherwise he would expel all Arab Christians into the Byzantine Empire. In response to this threat, the Emperor sent them back.⁴ Al-Ṭabarī says that 4000 people returned. Al-Walīd Ibn ‘Uqbah then refused to accept anything

² Abū ‘Ubayd, al-Qāsim Ibn Sallam (1986), *Kitāb al-Amwāl*. Beirut: Dār al-Kutub al-‘Ilmiyyah, pp. 33–35. See also Al-Balādhurī, Abū al-‘Abbās Ahmad Ibn Yahyā (1987), *Futūḥ al-Buldān*. Beirut: Mu’assasat al-Ma’arif, pp. 249–52, Abū Yūsuf, Ya‘qūb Ibn Ibrāhīm. n.d. *Kitāb al-Kharāj*. Beirut: Dār al-Ma’rifah, pp. 120–21, Abū Yūsuf (1979), *Kitāb al-Kharāj (Islamic Revenue Code)*, trans. ‘Ali, A. Lahore: Islamic Book Centre, pp. 240–44, Ibn Ādam, Yahyā, n. d. *Kitāb al-Kharāj*. Beirut: Dār al-Ma’rifah, pp. 65–68.

³ Abū ‘Ubayd (1986), *Kitāb al-Amwāl*, pp. 33–35. See also Al-Baladhuri (1987), *Futūḥ al-Buldān*, pp. 249–52; Abū Yūsuf (n.d.), *Kitāb al-Kharāj*, pp. 120–21; Abū Yūsuf (1979), *Islamic Revenue Code*, pp. 240–44; Ibn Ādam (n.d.), *Kitāb al-Kharāj*, pp. 65–68.

⁴ Al-Ṭabarī, Abū Ja‘far Muḥammad Ibn Jarīr (1997), *Tārīkh al-Umam wa al-Muluk*. Beirut: Manshūrat Muḥammad ‘Alī Baydun. Dār al-Kutub al-‘Ilmiyyah. Vol. 2, p. 485; Ibn al-Āthīr, Abū al-Ḥasan ‘Alī al-Shaibānī (1998), *al-Kāmil fī al-Tārīkh*. Beirut: Manshūrat Muḥammad ‘Alī Baydun, Dār al-Kutub al-‘Ilmiyyah. Vol. 2, pp. 377–78.

from them except their conversion to Islam. When they refused, al-Walīd wrote to Caliph 'Umar.⁵ He replied:

That rule [that you want to impose upon them] is only applicable to the Arabian Peninsula; nothing but strict surrender to Islam is acceptable for those living in the Arabian Peninsula. But leave the people of Banū Taghlib as they are, on the condition that they do not bring up their [newborn] children in Christian fashion, and accept [it] if any member of Banū Taghlib embraces Islam.⁶

Al-Walīd acted on this letter and negotiated with the Banū Taghlib that they would not christen their newborn babies or prevent anyone from embracing Islam. In addition, he asked them to pay the *jizyah* tax. The Banū Taghlib agreed to the first two conditions, but refused to pay money on *jizyah* terms. As a result, according to al-Ṭabarī, al-Walīd sent the leaders of the Christian tribe to Caliph 'Umar. On their arrival, Caliph 'Umar asked them to pay the *jizyah*. They told him that they would talk about this if he granted them safety. Caliph 'Umar agreed, and they explained that they considered paying *jizyah* to be beneath their dignity as Arabs,⁷ and a humiliation to their pride if it were to be levied in return for protection of life and property. They threatened to leave the area and go back to the Byzantine Empire if the Muslims insisted on collecting the money as *jizyah*.⁸ Caliph 'Umar discussed the matter with his companions and, according to Yahyā Ibn Ādam, in his book *Kitab al-Kharaj*:

'Ubāda Ibn al-Nu'man said to 'Umar Ibn al-Khaṭṭāb: O Commander of the Faithful! You know the might of Banū Taghlib, that they are living close to the enemy, and should they assist the enemy against you, it would be a burdensome affair. Therefore, if you decide to give them something, do so. Thereupon he made a treaty with them, making a condition that they should not baptize any of their children as Christians and that for them the *sadaqa* [a voluntary donation for charity] should be doubled. 'Ubāda used to say: they had a treaty but they did not act accordingly.⁹

Caliph 'Umar granted their wish, saying:

⁵ Al-Ṭabarī (1997), *Tarikh al-Umam, op. cit.*, Vol. 2, p. 485; Ibn al-Āthīr (1998), *al-Kamil fī al-Tārīkh*, Vol. 2, p. 378.

⁶ Al-Ṭabarī (1997), *Tārīkh al-Umam wa al-Muluk*, Vol. 2, p. 485, and Al-Ṭabarī (1989), *The History of al-Ṭabarī*, trans. and annotated Juynboll, G. New York: State University of New York Press, Vol. XIII, p. 90; Ibn al-Āthīr (1998), *al-Kamil fī al-Tārīkh*, Vol. 2, p. 378.

⁷ Al-Ṭabarī (1997), *Tārīkh al-Umam wa al-Muluk*, Vol. 2, 485, see also Al-Mawardī, Abū al-Ḥasan 'Alī Ibn Muḥammad (1994), *Al-Hāwī al-Kabīr*. Beirut: Dār al-Fikr. Vol. 18, p. 399.

⁸ Al-Ṭabarī (1997), *Tārīkh al-Umam wa al-Muluk*, Vol. 2, p. 485.

⁹ Ben Shemesh, A. (1958), *Taxation in Islam, the English Translation of Yahyā Ibn Ādam's Kitāb al-Kharaj*, foreword by Goitein, S. D. Leiden: Brill. Vol. 1, p. 55.

Do not humble Arabs; take the *ṣadaqa* from Banū Taghlib¹⁰

It can be seen that under the peace terms with the Banū Taghlib, the Christians must not baptize their children and their *ṣadaqa* should be doubled what the Muslims paid. Furthermore, none of them should be forced to change his or her religion.¹¹ From the above references, the only conclusion can be that Caliph ‘Umar was the first to establish these conditions with the Banū Taghlib. However, after examining many Muslim historical sources, I am confident that Caliph ‘Umar himself did not lay down such conditions – they were first promulgated by the Prophet Muhammad himself. Ibn Sa‘d narrates:

Muhammad Ibn ‘Umar al-Aslamī informed us: he said: Abu Bakr Ibn ‘Abd Allah Ibn Abi Sarah related to me on the authority of Ya‘qūb Ibn Zayd Ibn Talḥah he said: a deputation of Banū Taghlib, consisting of sixteen believers [Muslims], and Christians with golden crosses waited on the Apostle of God. They stayed in the house of Ramlah Bint al-Ḥārith. The apostle of God made peace with the Christians on the condition that they would not baptize their children into Christianity. He gave generous rewards to the faithful among them.¹²

This narration was given by Ibn Sa‘d in the section of his book about the different delegations who came to the Prophet asking for safe conduct in the year 9 AH (630 CE).¹³ Ibn Sa‘d was one of the scholars who examined in great depth all the reports about the delegations. Al-Ṭabarī refers to a narration that contains some conditions similar to those cited by Ibn Sa‘d, but adds that these conditions were limited to the Christians in the Banū Taghlib delegation and to those who had delegated the negotiations to them.¹⁴ Therefore, members of this group were the only ones prohibited from baptising their children.

It seems that the narrations of both Ibn Sa‘d and al-Ṭabarī have solved a major problem of who was the first to establish these conditions. According to them, it was the Prophet Muhammad. This is the conclusion whether one relies on Ibn Sa‘d’s narration, which covers the whole of the Banū Taghlib tribe, or al-Ṭabarī’s, which covers only some members of the tribe. Both agree that Caliph ‘Umar was not the originator of such conditions. In fact, according to al-Ṭabarī, the Muslims of the Banū Taghlib themselves requested Prophet Muhammad to

¹⁰ Ibid., p. 195

¹¹ ‘Azzam, ‘Abd-al-Rahman (1979), *The Eternal Message of Muhammad*, trans. Farah, C., London: Quartet Books, p. 55.

¹² Ibn Sa‘d (1997), *Kitāb al-Ṭabaqāt al-Kubrā*. Beirut: Manshūrat Muḥammad ‘Alī Baydun, Dār al-Kutub al-‘Ilmiyyah. Vol. 1, p. 239. See also Ibn Sa‘d (1967), *Kitāb al-Ṭabaqāt al-Kabīr*, trans. Haq, S. M. and Ghazanfar, H. K. Karachi: Pakistan Historical Society. Vol. 1, Part 2, p. 373.

¹³ Ibn Sa‘d (1997), *Kitāb al-Ṭabaqāt al-Kubrā*, Vol. 1, pp. 222–70.

¹⁴ Al-Ṭabarī (1997), *Tārīkh al-Umam wa al-Muluk*, Vol. 2, p. 485.

establish these conditions,¹⁵ in order to protect their children in the future, especially during times of war. That is to say, the Muslims of Banū Taghlib were trying to protect their children from being baptized after their (Muslim) parents' death, which seems logical.

It is known that certain groups of people were regularly exempted from paying *jizyah*. They included *dhimmis* who participated in *jihād* with Muslims, and women, children and the elderly. In the case of the Banū Taghlib, what took place was not an exemption from *jizyah*, but a form of appeasement by changing its name to *sadaqa*, provided that the amount paid was double. The name *jizyah* was never sacred; it was a term used to define the amount of money taken from *dhimmis*. It can therefore be argued that 'Umar's decision to call this payment *sadaqa* is not objectionable as long as it ended up in the Muslim treasury (*bayt al-māl*).

Now that the originator of the conditions imposed on the Banū Taghlib has been established, the question arises of why Caliph 'Umar reimposed these conditions. To answer it, a closer look at the surrounding circumstances is necessary. Shibli Nu'manī suggests that a jurisprudential argument took place during 'Umar's term of office about the religion of the young children whose fathers belonged to a Christian tribe, but who had embraced Islam before their death.¹⁶ Would these children be treated as Muslims or Christians? Would their relatives have the right to baptize them and bring them up as Christians? In response, Caliph 'Umar decreed that in these particular circumstances their relatives should not be allowed to baptize them or bring them up as Christians.¹⁷ This is in line with *shari'ah* principles, that the children of a Muslim father should inherit Islam from their father and be treated as Muslims. Al-Ṭabarī, discussing this prohibition, quotes from the treaty that was concluded with the Banū Taghlib:

They shall not Christianize the children of those who have already embraced Islam.¹⁸

Shibli Nu'manī contends that the condition was not based on a hypothetical situation, because a number of people from the Banū Taghlib did embrace Islam, and it was necessary to insert a provision in the treaty to safeguard their interests and those of their children.¹⁹ However, Caetani, a well-known Italian orientalist,

¹⁵ Ibid.

¹⁶ Nu'manī, Shibli (1957), *'Umar the Great (the second caliph of Islam)*. Trans. Saleem, M. Lahore: Muhammad Ashraf Press. Vol. 2, p. 182.

¹⁷ Ibid., p.182.

¹⁸ Al-Ṭabarī (1997), *Tārīkh al-Umam wa al-Muluk*, Vol. 2, p. 485.

¹⁹ Nu'manī (1957), *'Umar the Great*, Vol. 2, p. 183.

argues that the Christian families of the Banū Taghlib suggested these conditions themselves for economic reasons.²⁰

The record shows that Caliph ‘Umar’s treatment of the Banū Taghlib was merciful. Yaḥyā Ibn Ādam reported that Ziyād Ibn Hudayr used to tax the Banū Taghlib several times a year. One of the tribe’s elders went to ‘Umar and told him of this. ‘Umar said, ‘You will be relieved from that’, and wrote to Ziyād ordering him not to tax them more than once a year.²¹ Despite this edict, there were some reports that ‘Umar used to instruct his workers to deal firmly with the Banū Taghlib. For example, when he dispatched Ziyād Ibn Hudayr to the tribe to collect *‘ushr* (one-tenth),²² Caliph ‘Umar ordered him to be firm with the Christians of the Banū Taghlib because they were Arabs, and as a result might accept Islam. ‘Umar had never considered them and the other Christians in the Arab peninsula as true Christians. He did not agree with marrying their women or eating their slaughtered animals, although Islam allowed this conduct with Christians²³. ‘Umar went further, saying that the Christians of the Banū Taghlib got nothing from Christianity other than drinking alcohol and eating pork. According to al-Shāfi‘ī, ‘Alī Ibn Abī Ṭālib held the same point of view.²⁴

It seems that despite this prohibition the Christians of Banū Taghlib continued to baptize the children of deceased Muslims. The evidence is in the narration of ‘Ubāda: ‘they had a treaty but they did not act accordingly’,²⁵ as well as in that of ‘Alī Ibn Abī Ṭālib:

If I have an opportunity, I will deal with Banū Taghlib my way, I will execute their warriors, and I will enslave their women because they broke the agreement. Therefore, I am free from any responsibility towards them from the day they baptized the deceased Muslim children.²⁶

The case of the Christians of Banū Taghlib demonstrates clearly that Caliph ‘Umar in no way undermined the concept of freedom of religion. It is also evident that *jizyah* can be levied under any name, as long as the non-Muslims agree to pay the amount specified.

²⁰ Caetani, Leone (1910), *Annali Dell Islam*. Milan: Ulrico Hoepli. Vol. 2, p. 299.

²¹ Ben Shemesh (1958), *Taxation in Islam*, Vol. 1, p. 56.

²² A percentage (one-tenth) to be taken from the trading between the *dhimmi* and the non-Muslims (*harbi*), who had no covenant with the Islamic state, when they pass through Islamic territory; or else one-tenth of the yield of land to be levied for public assistance.

²³ Qur’an, al-Ma’idah: 5.

²⁴ Al-Shāfi‘ī, Abū ‘Abd Allah Muḥāammad. 1993. *Kitāb al-Umm*. Beirut: Dār al-Kutub al-‘Ilmiyyah. Vol. 2, p. 364.

²⁵ Ibn Ādam (n.d.), *Kitāb al-Kharāj*, p. 62, Ben Shemesh (1958), *Taxation in Islam*, Vol. 1, p. 55.

²⁶ Al-Baladhuri (1987), *Futūḥ al-Buldān*, *op. cit.*, pp. 251–52.

Conclusion

The conditions of the treaty issued to the Banū Taghlib tribe were not the work of Caliph 'Umar Ibn al-Khaṭṭāb and did not originate with him. During his reign, Caliph 'Umar issued several pacts and treaties, none of which was in the same style as the document under discussion, nor did they contain similar conditions. In other words, Caliph 'Umar implemented the conditions that the Prophet Muhammad had issued to this tribe, which were not applicable to all its members. It has also been shown that the Muslim members of the Banū Taghlib were the ones who requested the conditions. Throughout his rule, Caliph 'Umar adhered to Islamic principles in his treatment of non-Muslims, in this case Christians, and his relationship with non-Muslims was governed by clear legal rules and regulations.

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