

REMEMBERING THE COVENANTS OF
THE PROPHET MUḤAMMAD:
SHARED HISTORICAL MEMORY OF GOOD
GOVERNANCE AND PEACEFUL CO-EXISTENCE

Ibrahim Zein¹
Ahmed El-Wakil²

Abstract

There has, in recent years, been much renewed interest in the covenants that the Prophet Muhammad issued to the non-Muslim communities of his time. This paper argues that the covenants in the hands of non-Muslims possess a great deal of parallels to the compacts that exist in the Muslim sources. When examined through a valuational lens, we find that the textual parallelisms between political documents ascribed to the Prophet and the Rightly-Guided Caliphs share a common historical memory pointing to good governance and peaceful co-existence as the foundational principles of early Islamic polity. We therefore conclude by making the case that the original treaties of the Prophet would have reflected the Qur'ān's eternal values of justice in how Muslims ought to govern state affairs and in their tolerance of the other.

Keywords: Covenants, Islam, governance, co-existence, Prophet Muhammad, Constitution of Madina

¹ Currently Professor of Islamic Studies and Comparative Religion at Hamad Bin Khalifa University (HBKU) in Qatar. Email: izain@hbku.edu.qa

² Research assistant at the College of Islamic Studies at Hamad Bin Khalifa University.

Introduction

The *Munsha'āt al-Salāṭīn* or 'The Correspondence of the Sultans' is a fascinating work compiled by Ferīdūn Beg (d. 1583 CE) while he was Head of the Ottoman Chancery. Having attained the position of *nishāndjī*, Ferīdūn Beg was the Secretary of State for the Sultan's imperial *tughra* which was the emblem of state placed on official documents such as the *fermāns*. The *nishāndjī* was considered among the 'pillars of the empire' (*erkān-i dewlet*), with legal texts being prepared under his supervision, and his legislative power was such that he was known as *muftī-yi kānūn* to distinguish him from the actual *muftī* who was known as *Shaykh al-Islām*.³ Ferīdūn Beg presented the *Munsha'āt al-Salāṭīn* to Sultan Murād III on 9 Shawwāl 982 AH/22 January AD 1575.⁴ His work has stood the test of time for up to this day he is remembered as the most famous compiler of political documents in Ottoman history.

The *Munsha'āt al-Salāṭīn*, as Dimitris Kastritsis notes, was "intended to express an imperial vision of the Ottoman Empire and its diplomatic dealings with the outside world."⁵ It begins by stating the divine responsibility that the Sultans have in defending the religion of Islam and in installing a just political order on earth. The Sultan is referred to, among a number of honorifics, as "Custodian of the Two Holy Sanctuaries" who is "wearing the robe of justice and piety, defending the frontiers of Islam."⁶ The *Munsha'āt al-Salāṭīn*

³ Fr. Babinger, "Nishāndjī", in: Encyclopaedia of Islam, Second Edition, Edited by: P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs. Consulted online on 02 December 2018 http://0-dx.doi.org.library.qnl.qa/10.1163/1573-3912_islam_SIM_5929. First published online: 2012. First print edition: ISBN: 9789004161214, 1960-2007.

⁴ J.H. Mordtmann and Ménage, V.L., "Ferīdūn Beg", in: Encyclopaedia of Islam, Second Edition, Edited by: P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs. Consulted online on 02 December 2018 http://dx.doi.org/10.1163/1573-3912_islam_SIM_2354. First published online: 2012. First print edition: ISBN: 9789004161214, 1960-2007.

⁵ Dimitris Kastritsis, "Ferīdūn Beg's *Münşe'ātü's-Selāṭīn* ('Correspondence of Sultans') and Late Sixteenth-Century Ottoman Views of the Political World," in *Imperial Geographies in Byzantine and Ottoman Space*, (ed.) Sahar Bazzaz, Yota Batsaki and Dimiter Angelov (Washington DC: Center for Hellenic Studies, 2013): 91-110 at 93-94.

⁶ Ferīdūn Beg, *Münşe'ātü's-Selatin (Munsha'āt al-Salāṭīn)* Vol. 1 (Istanbul:

then records 41 documents belonging to early Islam, with the aim of depicting continuity of the Prophet and the Rightly-Guided Caliphs' political ideals to the Ottoman Sultans. The first letter⁷ of the Prophet which Ferīdūn Beg records is that which he sent to Heraclius, followed by the latter's response acknowledging Muhammad as a true messenger of God. His reason for choosing these two letters as the first ones in his compilation was evidently to define the Prophet's interaction with Christians and to relate it to Ottoman policy of which Muslim-Christian relations was a main concern. A clear distinction therefore had to be drawn between those Christian nations which the Ottoman Empire would be fighting and those living peacefully under Ottoman jurisdiction. It is therefore quite telling that the third document in *Munsha'āt al-Salāṭīn* is the *Prophet's Covenant with the Monks of Mount Sinai* which Sultan Selim I brought back from his expedition to Egypt in 1517 CE.⁸ Ferīdūn Beg also reproduced the *Prophet's Compact with Yuḥannā b. Rū'ba*⁹ which though it guarantees the protection and security of Christians and their bishops also makes it very clear that there would be serious repercussions for any treachery on their part.

It appears that Ferīdūn Beg wanted to outline an ideal yet realistic precedent on how Ottoman Sultans should administer their empire. He touches on the topic of international relations by recording the Prophet's letters to the political leaders of his time such as Khosrow I,¹⁰ *al-Muqawqis* of Egypt,¹¹ the Abyssinian Negus

Darūtībaatī'l-amire, 1858), 2. The three instead of the two sanctuaries are not mentioned most probably because of the poetic language that the author uses which lead to all of the Sultan's titles ending in the Arabic dual.

⁷ For the sake of clarity, we use the terms 'Letter', 'Administrative Directive', 'Constitution', 'Truce', and 'Land Grant' for any political document which the Prophet wrote and which cannot be regarded as a treaty between the Muslims and non-Muslims. The term 'Treaty' is therefore used to denote an original political contract which the Prophet issued to a non-Muslim community. The 'Compact' is its Muslim recension while the 'Covenant' is its non-Muslim recension.

⁸ For a short discussion of the history of the Monastery of St. Catherine which includes the covenant of the Prophet, see Aziz S. Atiya, "The Monastery of St. Catherine and the Mount Sinai Expedition," *Proceedings of the American Philosophical Society*, Vol. 96, No. 5 (1952): 578-586.

⁹ Ferīdūn Beg, *Munsha'āt al-Salāṭīn*, 33-34.

¹⁰ *Ibid.*, 31.

Aṣḥama b. Abjar,¹² al-Mundhir b. Sāwī,¹³ and the children of Julandā.¹⁴ At the same time he covers internal state affairs by reporting a letter of the Prophet dealing with taxation¹⁵ and the *Prophet's Administrative Directive to 'Amr b. Ḥaẓm* which also carries advice on matters of personal piety.¹⁶ Ferīdūn Beg then moves on to quote the letters of Abū Bakr and 'Umar,¹⁷ as well as one letter of 'Uthmān.¹⁸ He then proceeds to record 'Alī's famous letter to Mālīk al-Ashtar,¹⁹ clearly setting the ideal of how a Muslim ruler should treat his subjects. He then includes one letter of 'Ā'isha²⁰ and ends with a letter of al-Husayn to 'Umar b. Sa'd.²¹

Having completed his section on the writings of the early Muslims, Ferīdūn Beg moves on to record a decree from the Seljuk prince Sultan 'Alā al-Dīn to the founder of the Ottoman dynasty Oṣmān Ġāzī, written in Ottoman Turkish and which is dated at the beginning of the month of Ramaḍān 638 AH/March AD 1241.²² By juxtaposing Ottoman rule to that of the early of Muslims, Ferīdūn Beg establishes the legitimacy of the Ottoman Sultans as defenders of Orthodox Sunni Islam, having recognized the true way of the Prophet, the Rightly-Guided Caliphs, the Companions, and the Household of the Prophet. Ferīdūn Beg does not at all seem concerned with the six centuries of Islam between the pious generation and the Ottoman Caliphate, which to him represents a new political order that is not in any way related to the Umayyads, the 'Abbasīds, and their likes. Legitimacy is thus not justified by lineage but rather by piety and upholding justice according to the ideals of the early Muslim generation who set the precedent for the religious

¹¹ Ibid., 33.

¹² Ibid., 32.

¹³ Ibid., 33.

¹⁴ Ibid.

¹⁵ Ibid., 32.

¹⁶ Ibid., 34-5.

¹⁷ Ibid., 35-40.

¹⁸ Ibid., 40-1.

¹⁹ Ibid., 41-7.

²⁰ Ibid., 47.

²¹ Ibid.

²² Ibid., 55. The letter begins on p. 48.

sanctification of Ottoman policy in the spheres of international relations, just rule, treatment of religious minorities, taxation, and personal piety. As Kastritsis notes “By choosing to begin with Muhammad and the Rightly Guided Caliphs, Ferīdūn Beg is able to present the Ottoman sultans, whose correspondence forms the bulk of the work, as successors to the Prophet Muhammad in their leadership of the Islamic community (i.e. as Caliphs).”²³

It should here be pointed out that the official decrees of the Prophet recorded by Ferīdūn Beg differ from the ḥadīth literature in the sense that the latter does not explicitly focus on governance and international relations. Ferīdūn Beg’s utilization of political documents from early Islam showcases that there is no distinction between religion and a just political order that regulates the official policy of the Islamic state both internally and externally. His work is important for two main reasons. Firstly, the *sunna* which he focuses on deals with statecraft and official legislation; and secondly, it is the first work that we know of to have bridged the gap between Muslim and non-Muslim tradition when it comes to the *Covenant of the Prophet with the Monks of Mount Sinai*, making him the first writer to initiate the concept of shared historical memory.

Ferīdūn Beg’s collection of the early Muslims’ official decrees – most of which are scattered in books of ḥadīth and history – inspired later writers such as the 19th century scholar al-Qāḍī al-Sayyid Aḥmad Rifʿat who was a great influence on the late Muhammad Hamidullah (1908-2002 CE). If there is a work today that can be considered a definite reference on the letters, compacts and covenants of the Prophet and the Rightly-Caliphs then it is certainly Hamidullah’s *Majmūʿat al-Wathāʾiq al-Siyāsiyya li-l-ʾahd al-Nabawī wa al-Khilāfat al-Rāshida (Compendium of the Prophet and the Rightly-Guided Caliphs’ Political Documents)*.²⁴ In this work, Hamidullah did not solely confine himself to Muslim sources. He reproduced the *Exordium*,²⁵ the *Prophet’s Covenant with the*

²³ Kastritsis, “Ferīdūn Beg’s *Münşeʾātüʾs-Selāḫīm*,” 102.

²⁴ Though Hamidullah’s work is the most authoritative on the subject matter, it should be pointed out that the first book to collect the covenants of the Prophet was “*Uḥūd al-Nabī*” by al-Madāʾinī (d. 225 AH/843 CE) but this work is now lost.

²⁵ Muhammad Hamidullah, *Majmūʿat al-Wathāʾiq al-Siyāsiyya li-l-ʾahd al-Nabawī*

Christians of Najrān,²⁶ and the *Covenant of 'Umar with the Christians of Mesopotamia*²⁷ which can all be found in the *Chronicle of Seert*;²⁸ the various Prophetic covenants studied by Louis Cheikho in his article “‘*Uhūd Nabī al-Islām wa al-Khulāfā' al-Rāshidīn li-l-Naṣārā*”;²⁹ and the Prophetic covenants *with the Armenian Christians*,³⁰ *with the Jews of Khaybar and Maqnā*,³¹ and *with the Magi*.³² Hamidullah also included the *Covenant of the Prophet with the Monks of Mount Sinai* which was documented and studied by Aḥmad Zakī Bāshā,³³ noting that a copy of that same text was made in Ferīdūn Beg's *Munsha'āt al-Salāṭīn*.³⁴ Nevertheless, like Cheikho, Hamidullah expressed his misgivings over the covenants' authenticity without going into any extensive study about them.

The first book to have exclusively focused on the Prophet's covenants emanating from non-Muslim sources is John Andrew Morrow's *The Covenants of the Prophet Muhammad with the Christians of the World*³⁵ and which was followed by a three part anthology entitled *Islam and the People of the Book: Critical Studies on the Covenants of the Prophet*.³⁶ Despite the sanguine approach of Morrow and like-minded scholars who have supported the authenticity of the covenants,³⁷ these documents nevertheless

wa-l-khilāfa al-rāshida (Beirut: Dār al-Nafā'is, 1987), 181-186.

²⁶ Ibid., 186-191.

²⁷ Ibid., 195-197.

²⁸ Scher, *Chronique de Séert*, 602-18 [282-98]. For the *Covenant of 'Umar with the Christians of Mesopotamia*, see 620-623 [300-303].

²⁹ Ibid. 553-5. Also see Louis Cheikho al-Yasū'ī, “‘*Uhūd Nabī al-Islām wa al-Khulāfā' al-Rāshidīn li-l-Naṣārā*”, *Al-Machriq: Revue Catholique Orientale Mensuelle* (Beirut: Imprimerie Catholique, 1909).

³⁰ Hamidullah, *Majmū'at al-Wathā'iq*, 556-560.

³¹ Ibid., 121-124.

³² Ibid., 549-552.

³³ Ibid., 561-565.

³⁴ Ibid. 565.

³⁵ See John Andrew Morrow, *The Covenants of the Prophet Muhammad with the Christians of the World* (Tacoma, WA: Angelico Press & Sophia Perennis, 2013).

³⁶ See John Andrew Morrow, *Islam and the People of the Book: Critical Studies on the Covenants of the Prophet*, Vols. 1-3 (Cambridge: Cambridge Scholars Publishing, 2017).

³⁷ See Ahmed El-Wakil, “The Prophet's Treaty with the Christians of Najran: An Analytical Study to Determine the Authenticity of the Covenants,” *Oxford Journal*

embody problem when it comes to ascertaining their historical veracity and for which there are no conclusive explanations. Their early dating, Mu‘āwiya being a scribe to a number of them when he was not yet a Muslim, and the problematic witnesses’ names are not expected to go away any time soon.

To bridge the gap between those who completely dismiss the covenants as forgeries and those who wholeheartedly accept them as authentic, we adopt in this paper a methodology of valuational and textual parallelisms starting with the *Constitution of Madīna* which represents the first major official decree of the Prophet. As some of the clauses in the covenants find an echo in the compacts, the ḥadīth, and the various Muslim historical works, with their values being faithfully reflected in the *Constitution of Madīna*, we argue that a valuational and a textual relationship emerges between the covenants and a number of texts found in the Islamic tradition. A common set of values can then be extracted from the Muslim and non-Muslim sources at our disposal that ultimately leads to a shared historical memory that can be projected back to the rise of Islam. What subsequently emerges from the valuational and textual parallelisms are principles of good governance and peaceful co-existence having at some point existed in the religious imagination of Jews, Samaritans, Christians, Zoroastrians and Muslims.

We are of course aware of problematic texts which fall outside the scope of the shared historical memory, such as the notorious *Pact of ‘Umar* which has troubling clauses restricting the religious freedom of non-Muslims. Another set of problematic texts are a number of traditions alleging that the Prophet ordered the expulsion of the Jews and Christians from the Arabian Peninsula, but as previous studies have shown, it would seem that these were voluntarily relocations to build the new garrison cities of Kūfa and Baṣra.³⁸ These discriminatory measures and intolerant attitudes are

of Islamic Studies, 27, 3 (2016): 285-286.

³⁸ See El-Wakil, “The Prophet’s Treaty with the Christians of Najran,” 320-325; and Ahmed El-Wakil, “Whoever Harms a Dhimmī I Shall Be His Foe on the Day of Judgment’: An Investigation into an Authentic Prophetic Tradition and Its Origins from the Covenants,” *Religions* (2019), 10, 516. Also see Harry Munt “‘No two religions’: Non-Muslims in the early Islamic Ḥijāz,” *Bulletin of the School of Oriental and African Studies*, 78, 2 (2015): 249-269. One can also consult the letters

completely absent from the non-Muslim narratives that have come down to us, and so they do not form part of the shared historical memory.

Though the perceptions of non-Muslim historians are useful in reconstructing the shared historical memory, caution also needs to be applied when dealing with their texts as they were outsiders to the Islamic tradition and would obviously have had their own biases. There is certainly a gap between the valuational ideals of the shared historical memory and the failure of their realization in socio-historical realities. More to the point, specific juristic rulings were at times in contra-distinction to these ideals. Nevertheless, taking all of these constraints into consideration, our approach is a hermeneutical stand that seeks to merge the shared historical memory into one meaningful valuational approach that serves the purpose of advancing inter-faith relations.

The Constitution of Madīna as the Motive behind the Covenants

It is a well-established historical fact that the Prophet wrote numerous political documents after he emigrated from Makka to Madīna. Michael Lecker has demonstrated the existence of Jewish schools in Yathrib before the Prophet's emigration,³⁹ meaning that the presence of literacy there allowed the Prophet to recruit secretaries to not only write the Qur'ān, but also his letters and official decrees which he would have dispatched to various tribes and religious communities. Whatever criticisms of the *Constitution of Madīna* scholars may have, no serious historian has ever denied that it can be traced to an authentic document dating back to the Prophet's time even though its textual accuracy may at times have been compromised. It is certainly telling how even the most skeptical scholars of early Islam have acknowledged the *Constitution's* historicity with Patricia Crone noting that it "sticks like a piece of

of 'Umar and 'Uthmān concerning the Christians of Najrān which do not at all read like expulsions, but rather as relocations. See Abū Yūsuf, *Kitāb al-Kharāj* (Beirut: Dār al-Ma'rifa, 1979), 73-74.

³⁹ See Michael Lecker, "Zayd b. Thābit, 'a Jew with two sidelocks': Judaism and Literacy in pre-Islamic Madina (Yathrib)," *Journal of Near-Eastern Studies*, 56 (1997): 259-273

solid rock in an accumulation of rubble.”⁴⁰ The *Constitution* has been indirectly attested to by Sebeos, who writing in the 660s is considered one of the earliest contemporary eye-witnesses to the rise of Islam. As Sebeos explains:

Then the twelve tribes of all the clans of the Jews went and gathered at the city of Edessa. When they saw that the Persian army had departed from them and had left the city in peace, they shut the gate and fortified themselves within... Taking desert roads, they went to Tachkastan, to the sons of Ismael, summoned them to their aid and informed them of their blood relationship through the testament of scripture. But although the latter were persuaded of their close relationship, yet they were unable to bring about agreement within their great number, because their cults were divided from each other.

At that time a certain man from among those same sons of Ismael whose name was Mahmet, a merchant as if by God’s command appeared to them as a preacher [and] the path of truth. He taught them to recognize the God of Abraham, especially because he was learned and informed in the history of Moses. Now because the command was from on high, at a single order they all came together in unity of religion.⁴¹

Sebeos’ account suggests that the Jews of Madīna were in contact with Jewish communities in other localities. The inhabitants of the Arabian Peninsula were not cut off from the world at large, rather they were lying at the intersection of the greatest powers of the time, the Byzantine, Sasanian and Abyssinian empires. The Quraysh were also known to undertake long journeys into foreign territory which would have exposed them to the administration of empire. The idea of drafting treaties to govern inter-communal relations was not

⁴⁰ Patricia Crone, *Slaves on Horses: The Evolution of Islamic Polity* (Cambridge: Cambridge University Press, 1980), 7.

⁴¹ Sebeos, *The Armenian History attributed to Sebeos*, translated with notes by R. W. Thomson; historical commentary by James Howard-Johnston (Liverpool: Liverpool University Press), 95-96.

something new per se, though in the city-state of Madīna the formulation of a political document between the Muslims and the Jews with this high-level of political maturity would have certainly been revolutionary. It is also telling how the contractual bond between the two communities was picked in the *Doctrina Jacobi*, written in July 634 CE, when it remarks about “the Jews who mix with the Saracens.”⁴²

Written documents having been drafted before the Hijra have been reported by Muslim historians. Lecker has extensively studied a pre-Islamic document from Marzūqī’s *Kitāb al-Azmina wa al-Amkina* which was written in the year 35 of the elephant.⁴³ The *ḥilf al-fuḍūl* was most likely a written contract⁴⁴ and the Makkans’ boycott of the Muslims was certainly based on a written document.⁴⁵ The cultural milieu could very well have influenced the Prophet early on though there was no opportunity for him to write official documents except after the *Hijra*. Though the pledge of ‘Aqaba was an oral agreement between the negotiating parties (i.e. the Prophet, the Aws and the Khazraj), this was most likely due to its secretive nature. Meir Bravmann has persuasively argued that the early Islamic State possessed state archives which developed as a result of Madīnan bureaucracy after the issuance of the *Constitution of Madīna*,⁴⁶ but these were unfortunately destroyed at some point in early Islamic history.

⁴² Robert Hoyland, *Seeing Islam as Others Saw It: A Survey and Evaluation of Christian, Jewish and Zoroastrian Writings on Early Islam* (Princeton, NJ: Darwin press, 1997), 528.

⁴³ See Michael Lecker, “A Pre-Islamic Endowment Deed in Arabic Regarding al-Wahīda in the Ḥijāz” in Lecker *People, Tribes and Society in Arabia around the time of Muhammad*, IV (Aldershot: Ashgate, 2005), 1-16.

⁴⁴ Alfred Guillaume, *The Life of Muhammad: A translation of Ibn Ishaq’s SIRAT RASUL ALLAH* (Oxford: Oxford University Press, 2006), 57. Though there are problems with the *sīra*, we may here turn to Gregor Schoeler’s observation that “we can confidently assume that, at least in the Arab urban centres, writing was practised before Islam.” As Makka was an urban centre, it does seem plausible for written documents to have been drafted there in pre-Islamic times. See Gregor Schoeler, *The Oral and the Written in Early Islam* (London, New York: Routledge, 2006), 63.

⁴⁵ *Ibid.*, 159-161.

⁴⁶ Meir Bravmann, “The State Archives in the Early Islamic Era,” Fred Donner (ed.), *The Articulation of Early Islamic State Structures* (Farnham, Burlington:

The *Constitution of Madīna* established the foundations of the Pax Islamica, an *umma* comprising of people of different faiths, ethnicities and languages, all living side by side under a common and agreed social contract. The *Constitution of Madīna* was the principal political document out of which two types of valuational documents derived. The first are official decrees outlining the principles of good governance such as the *Prophet's Administrative Directive to al-'Alā' b. al-Ḥaḍramī*⁴⁷ and *'Alī's Administrative Decree to Mālik al-Ashtar*,⁴⁸ and the second are the treaties which focused on the principles of co-existence by offering non-Muslim populations protection and self-autonomy. As such, the administrative decrees, the covenants and the compacts should not be regarded as ad hoc documents but rather as an extension of Madīnan polity which laid out the foundations for the Pax Islamica.

Merging the Historical Memory

Muslim and non-Muslim historians share a common historical recollection of the Prophet and the Rightly-Guided Caliphs who issued official decrees. The first near contemporary of the Prophet to have made an indirect reference to the covenants is the Nestorian Catholicos Isho'yahb III (d. 659 CE) who expressed how Muslims are “no enemy to Christianity, but they are even praisers of our faith, honorers of our Lord's priests and holy ones, and supporters of churches and monasteries.”⁴⁹ Textual parallelism suggests that

Ashgate, 2012), 183-185.

⁴⁷ For an in-depth discussion of this document, see Ahmed El-Wakil, “The Prophet's Letter to al-'Alā' b. Al-Ḥaḍramī: An Assessment of Its Authenticity in Light of the Covenants and the Correspondence with the People of Yemen.” *Islam and Christian-Muslim Relations* (2019): 1-32.

⁴⁸ For a more detailed discussion of the Prophet's administrative decrees, see Ibrahim Zein and Ahmed El-Wakil, “Islamic Political Order and the Meaning of Accountability: Preliminary Reflections” in Ahmet Alibašić et al. (eds.), *Islamska Pravna Kultura u Tranziciji: Eseji u čast Fikreta Karčića* (Islamic Legal Culture in Transition: Essays in Honor of Fikret Karčić), (Sarajevo: Centar za napredne studije, 2020): 101-121.

⁴⁹ Michael Philip Penn, *When Christians First Met Muslims: A Sourcebook of the Earliest Syriac Writings on Islam* (Berkeley: University of California Press, 2015), 35.

Isho‘yahb III was referring to the clause in the covenants requiring the Muslims to assist the Christians in matters pertaining to their faith, including the building of their churches.⁵⁰ In Book 14 of his *Summary of World History*, more accurately known as the *Book of Main Points* which he wrote in 67 AH/687 CE, the Nestorian writer John Bar Penkāyē makes a similar observation to that of Isho‘yahb III when he recalls how the Muslims honoured the Christian faith following their defeat of the Byzantine and Persian empires:

When the kingdom of the Persians came to an end, in the days of their king Khosrow, the kingdom of the children of Hagar at once gained control over more or less the whole world, for they took the whole kingdom of the Persians, overthrowing all their warriors who prided themselves in the arts of war. We should not think of the advent (of the children of Hagar) as something ordinary, but as due to divine working. Before calling them, (God) had prepared them beforehand to hold Christians in honour; thus they also had a special commandment from God concerning our monastic station, that they should hold it in honour. Now when these people came, at God’s command, and took over as it were both kingdoms, not with any war or battle, but in a menial fashion, such as when a brand is rescued out of the fire; not using weapons of war or human means, God put victory into their hands in such a way that the words written concerning them might be fulfilled, namely, “One man chased a thousand and two men routed ten thousand.” How, otherwise, could naked men, riding without armor or shield, have been able to win, apart from divine aid, God having called them from the ends of the earth so as to destroy, by them, a sinful

⁵⁰ Also see Ahmed El-Wakil and Walaa Nasrallah, “The Prophet Muhammad’s Covenant with the Armenian Christians: A Critical Edition based on the Reconstructed Master Template,” in (ed.) John Andrew Morrow, *Islam and the People of the Book*, Vol. 2, 501, section 47.

kingdom and to bring low, through them, the proud spirit of the Persians.⁵¹

It is a rather peculiar phenomenon that although Muslims appear to have on the whole been aware of the covenants in the possession of non-Muslim communities, they seldom seem to have adopted them as internal documents. The numerous decrees issued by the Fāṭimid demonstrate awareness of the *Prophet's Covenant with the Monks of Mount Sinai* even though it was never copied out in any noted Ismā'īlī work. Likewise, the *Constitution of Madīna* was only reproduced in full by Ibn Ishāq and Abū 'Ubayd, and there are very few quotations of it in the ḥadīth literature. A parallel between the *Constitution* and the covenants could perhaps be formed as Muslims were clearly aware of these important documents though they never explicitly referred to them for their social organization at the city or state level. A brief observation by the philosopher Zāhīr al-Dīn al-Bayhaqī (d. 565 AH/1170 CE) in his *Tarikh Ḥukāmā' al-Islām* reflects this phenomenon when he describes how he had seen one of 'Alī's covenants though he never bothered to quote it. He reports that:

Yaḥyā al-Daylamī was a physician but also one of the early Christian philosophers. One of the governors of 'Alī b. Abī Ṭālib, Commander of the Believers, may Allah be pleased with him, wanted to chase him out of Persia and destroy his monastery. He therefore wrote to the Commander of the Believers explaining his situation. Muḥammad b. al-Ḥanafīyya ['Alī's son] wrote

⁵¹ Sebastian P. Brock, "North Mesopotamia in the Late Seventh Century: Book XV of John Bar Penkāyē's Rīš Mellē," *Jerusalem Studies in Arabic and Islam*, 9 (1987): 51-75 at 57-58. Text has been slightly edited by authors. Also see Penn, *When Christians First Met Muslims*, 88-107. For the French translation from the Syriac, see Alphonse Mingana, *Source Syriaques*, Vol. 1 (Leipzig: Otto Harrassowitz, 1908), 172-197. We have from this point onwards primarily relied on the English translation of Sebastian Brock, followed by that of Roger Pearse which is an English translation of Mingana's French text. Also see John Bar Penkāyē, "Summary of World History (Rīshe Melle), Book 15." Trans. Alphonse Mingana and Roger Pearse. *The Tertullian Project: Early Church Fathers - Additional Texts* (2010). Internet: http://www.tertullian.org/fathers/john_bar_Penkāyē_history_15_trans.htm.

to him a deed of protection (*kitāb amān*) on the orders of the Commander of the Believers. I saw a copy of this document in the hands of the physician Abū al-Futūḥ al-Mustawfī al-Naṣrānī al-Ṭūsī... At the end of it was the signature of the Commander of the Believers and in his handwriting was written “Allah is the King, and ‘Alī is His servant.”⁵²

Other than occasional references to the covenants it is very rare to ever find anything more about them, despite them being inferred in legal texts. For instance, Shihāb al-Dīn al-Qarāfī (d. 684 AH/1285 CE) explains:

Righteous conduct towards the protected people is an obligation, however intimacy and allying ourselves to them is religiously prohibited. These two positions are intertwined but need to be clarified, the distinction being that the contract of protection which we have with them binds us to grant them certain rights because they are part of our community and under our safeguard. They have been granted the protection of Allah Most-High, His messenger, peace and blessings be upon him, and the religion of Islam. If any of the Muslims wrongs them even if it be by the use of a foul word, speaks ill of them behind their back, harms them in any way, or assists others in causing them injury, then such a person has forsaken the protection of Allah Most-High, His messenger, peace and blessings be upon him, and the religion of Islam.⁵³

The earliest work to document a full-text of a Prophetic covenant is the *Chronicle of Seert* which was composed in the 10th century; the second is Ferīdūn Beg’s *Munsha’āt al-Salāḥīn*; and the third is Gabriel Sionita’s *Testamentum et Pactiones Initae inter*

⁵² Ṣahīr al-Dīn al-Bayhaqī, *Tarikh Ḥukāmā’ al-Islām* (Damascus: Maktaba al-Traqī, 1946), 39.

⁵³ Shihāb al-Dīn al-Qarāfī, *Anwār al-Burūq fī Anwā’ al-Furūq*, Vol. 3 (KSA: Ministry of Awqāf, 2010), 14.

*Mohamedem et Christianae Fidei Cultores*⁵⁴ which was published in Paris in 1630 CE. Though it is true that Muslim historians and traditionists such as Ibn Ishāq, al-Wāqidī, Abū Yusūf, al-Ṭabarī and al-Balādhurī, among others, did report the official decrees of the Prophet and the Rightly-Guided Caliphs, none of them have ever recorded an identical text to that which we find in the custody of the non-Muslims. Ferīdūn Beg is therefore the first Muslim writer to be credited with taking a copy of a Prophetic covenant inherited by Christians and to adopt it as an Islamic document. The copy of the Prophetic covenant which Ferīdūn Beg transcribed was the *Prophet's Covenant with the Monks of Mount Sinai* which Sultan Selim I brought back to Istanbul. In the Turkish translation which has been added in the margin, either by Ferīdūn Beg or a later editor, we find the names of witnesses, the date of 3 Muḥarram 2 AH, and the name of the scribe, 'Alī b. Abī Ṭālib, all of which conform to copies of the *Covenant with the Monks of Mount Sinai* found with the Monastery of St. Catherine and its dependencies. Though the covenants were never quoted in Ottoman literature, the Ottoman Sultans did make copies of it on parchments which they decorated and issued to the various Christian denominations living under their realm as official acknowledgment of their religious status within the Ottoman Empire.⁵⁵

Scribal Conventions

The style and format of the covenants find a parallel to some of the compacts in the Islamic sources, indicating that the official decrees of the Prophet had a date, names of witnesses and the scribe's name. The *Prophet's Administrative Directive to al-'Alā' b. al-Ḥadramī*,⁵⁶ the *Manumission Contract of Salmān al-Fārisī*,⁵⁷ the *Prophet's*

⁵⁴ See Gabriel Sionita, *Testamentum et Pactiones Initae inter Mohamedem et Christianae fidei Cultores* (Parisiis: Vitray, 1630), 6.

⁵⁵ We have documented numerous copies of such documents with various Christian communities. A detailed survey of their whereabouts is beyond the scope of this study.

⁵⁶ Hamidullah, *Majmū'at al-Wathā'iq*, 572-577. Also see El-Wakil, "The Prophet's Letter to al-'Alā' b. Al-Ḥadramī," 7-8.

⁵⁷ *Ibid.*, 328-329.

Compact with the Banū Zakān,⁵⁸ and the *Ṣiffīn Arbitration Agreement*⁵⁹ are the only documents in Hamidullah's work to possess all of these three scribal conventions. Abū Yūsuf's recension of the *Prophet's Compact with the People of Najrān*,⁶⁰ the *Prophet's Land Grant to Tamīm al-Dārī*,⁶¹ the *Truce of al-Hudaybiyya*,⁶² the Prophet's letters to the delegations of Thumāla and Ḥuddān,⁶³ to the people of Bāriq,⁶⁴ and Qaṭn ibn Ḥāritha⁶⁵ have the scribe's name and a list of witnesses. Other compacts, too numerous to list, have only the scribe's name or only the names of witnesses.

Parallelisms between some of the Prophet's compacts in the Muslim sources and the covenants in the possession of non-Muslim communities point to how these documents derived from a source treaty. Al-Balādhurī's recension of the *Prophet's Compact with the Jews of Maqna*⁶⁶ was written in 9 AH, and just like its Cairo Genizah counterpart which was discovered by Hartwig Hirschfeld,⁶⁷ it was scribed by 'Alī. Sorabjee Jamsheji Jejeehboy's recension of the *Prophet's Covenant with the Magi*⁶⁸ was also scribed by 'Alī and has a comprehensive list of witnesses just like the Islamic recensions of Abū al-Shaykh al-Asfahānī,⁶⁹ Abū Nu'aym,⁷⁰ and al-Sayyid 'Alī Khān al-Shīrāzī.⁷¹ The recensions of Mirzā Ḥusayn al-Nūrī

⁵⁸ Ibid., 568-569.

⁵⁹ Ibid., 538-541.

⁶⁰ Abū Yūsuf, *Kitāb al-Kharāj*, 72-73.

⁶¹ Hamidullah, *Majmū'at al-Wathā'iq*, 131-132.

⁶² Ibid., 77-80.

⁶³ Ibid., 164.

⁶⁴ Ibid., 241-242.

⁶⁵ Ibid., 296-298.

⁶⁶ al-Balādhurī, *Kitāb Futūḥ al-Buldān* (Beirut: Mū'assasat al-Ma'ārif, 1987), 80-81.

⁶⁷ See Hartwig Hirschfeld, 'The Arabic Portion of the Cairo Genizah at Cambridge', *The Jewish Quarterly Review*, Vol. 15, 2 (1903): 167-81 at 170-172.

⁶⁸ Jejeehboy, *Tuqviuti-din-i-Mazdiasna*, 1-10. Also see Hamidullah, *Majmū'at al-Wathā'iq al-Siyāsiyya*, 549-551.

⁶⁹ Abū al-Shaykh, *Ṭabaqāt al-Muḥaddithīn bi-Asfahān*, Vol. 1 (Beirut: Mū'assasat al-Risāla), 231-234.

⁷⁰ Abū Nu'aym, *Dhikr Akhbār Asfahān*, Vol. 1 (Beirut: Dār al-Kutub al-'Ilmiyya), 78-79.

⁷¹ al-Shīrāzī, *Al-Darajāt al-Rafī'a fī Ṭabaqāt al-Shī'a* (Qom: Maktaba Baṣīratī, 1397 AH), 206-207.

Ṭabarsī,⁷² Mūsā b. ‘Abdullah al-Zanjānī,⁷³ and Ibn Shahrashūb⁷⁴ neglected the names of witnesses and the date, merely stating that ‘Alī was the scribe and thus demonstrating how copyists did not always take proper care to reproduce the scribal conventions as they appeared in the original document. Though the scribal conventions occasionally possess a series of anomalies, from the perspective of a shared historical memory their presence accurately reflects the style of how treaties in early Islam would have been formulated.

Attestations of Justice during the Early Caliphate

According to the contemporary eye-witness John Bar Penkāyē, justice, peace and co-existence were all realized in the early Pax Islamica. Having been a great admirer of Mu‘āwiya, John alluded to his rule in the following terms:

A man called Mu‘āwiya, became king controlling the two kingdoms, of the Persians and of the Byzantines. Justice flourished in his time, and there was great peace in the regions under his control; he allowed everyone to live as they wanted.⁷⁵

Mu‘āwiya’s tolerance was according to John based on some sort of command which the Muslims had to observe towards the Christians and particularly the monks:

For they held, as I have said above, an ordinance, stemming from the man who was their guide (*mahaddyānā*), concerning the people of the Christians and concerning the monastic station.⁷⁶

“They” is a reference to the Muslims. The “guide” who John is

⁷² Mirzā Ḥusayn al-Nūrī Ṭabarsī, *Kalima Ṭayyiba*, (Tehran: Islāmiyya, 1381 AH), 60-61.

⁷³ Mūsā b. ‘Abdullah al-Zanjānī, *Madīnat al-Balāgha*, Vol. 2 (Tehran: Manshūrāt al-Ka‘ba, 1343 AH), 253-255.

⁷⁴ Ibn Shahrashūb, *Manāqib Al Abī-Ṭālib*, Vol. 1 (Qom: Mū‘assasat al-Nasharāt ‘Alāma, no date), 111.

⁷⁵ Brock, “North Mesopotamia in the Late Seventh Century,” 61..

⁷⁶ Ibid.

referring to is Prophet Muhammad. As for the “ordinance... concerning the people of the Christians and concerning the monastic station,” it is very difficult to conceive that John could have meant anything other than the covenants which exempt the Christian clergy from taxation. Particularly noteworthy is how John links Mu‘āwiya to the covenants of the Prophet to which he is reported to have been a scribe. John then explains how it was not just Christians who enjoyed unfettered religious freedom, but that this right was extended to other religious communities who we must presume were also recipients of official decrees. As he observes:

Of each person they required only tribute (*madattā*), allowing him to remain in whatever faith he wished.⁷⁷ There was no difference between pagan and Christian, the believer was not distinct from the Jew, and did not differ from the deceiver.⁷⁸

The “tribute” is here a reference to the *jizya* and *kharāj* which are mentioned in the covenants. It is significant how John did not see the *jizya* as having been an impediment to economic prosperity, suggesting that it was at an acceptable rate though he does at one point mention how God “used up our strength through taxes.”⁷⁹ As John explains in a highly poetic fashion:

Once Mu‘āwiya had come to the throne, the peace throughout the world was such that we have never heard, either from our fathers or from our grandparents, or seen that there had ever been any like it...⁸⁰ Peace reigned everywhere, the land gave us ample fruit. Good health prevailed, friendship was everywhere, commerce was doubled, the children bounded with joy, wealth was widespread, riches were immense, the kings were at peace, there were good relationships between the lords, the roads were open, the enemy’s forces were broken,

⁷⁷ Ibid.

⁷⁸ Mingana, *Source Syriaques*, 179. This passage was not translated by Brock.

⁷⁹ Ibid., 182. This passage was not translated by Brock.

⁸⁰ Ibid., 175; Brock, “North Mesopotamia in the Late Seventh Century,” 61.

the trumpets of war were asleep.⁸¹

It appears from John's text that Mu'āwiya gave protection to all Christians without discriminating in favour of any sect over another, a policy that is recorded in the *Maronite Chronicle* when it reports how the Jacobites "came to Damascus and held an inquiry into the Faith with the Maronites in the presence of Mu'āwiya."⁸² Afterwards the *Maronite Chronicle* informs us how the Jacobites agreed to pay Mu'āwiya a sum of gold every year to guarantee their protection. The brief period of peace recorded by John is also attested in Ghevond's *History* when he acknowledges that "while Mu'āwiya reigned, the country [of Armenia] enjoyed a great peace."⁸³

Admiration of Mu'āwiya and his rule seems to be a recurring theme in Christian sources, and he is famously remembered for having rebuilt the Church of Edessa which was destroyed after the earthquake of 3 April AD 679.⁸⁴ Dionysius of Tel-Mahrē (d. 845 CE) describes in his reconstructed chronicle how Mu'āwiya was "an honourable man whose tolerance and humanity seemed unlimited."⁸⁵ He then provides us with this anecdote to make his point:

The following story is told to illustrate the boundless tolerance of Mu'āwiya b. Abī Sufyān. A certain Arab hit a small son of Mu'āwiya's and the child died. The man was arrested and brought to Mu'āwiya, who asked him why he had killed the child. He answered, 'By your life, O King, I hit him just once without intending to kill him. Now that he is dead, it is for you to deal with me according to the abundant mercy of your goodness.'

⁸¹ Ibid., 181. This passage was not translated by Brock.

⁸² Andrew Palmer, Sebastian P. Brock, Robert Hoyland, *The Seventh Century in the West-Syrian Chronicle* (Liverpool: University Press, 1993), 30.

⁸³ Ghémond, *Histoire des guerres et des conquêtes des Arabes en Arménie*, (trans.) Garabed V. Chahnazarian (Paris: Benjamin Duprat, 1856), 14.

⁸⁴ Robert G. Hoyland, *Theophilus of Edessa's Chronicle and the Circulation of Historical Knowledge in Late Antiquity and Early Islam* (Liverpool: University Press, 2011), 170-171.

⁸⁵ Palmer, *The Seventh Century*, 186.

Then Mu‘āwiya said to him, ‘Go! In the eyes of God you are innocent.’⁸⁶

Despite the controversies surrounding Mu‘āwiya in the Islamic tradition, literary sources describing him in a positive light do exist, and traditions favourable to him have been extensively analyzed by Aram Shahin. One famous tradition has the Prophet describe him as trustworthy and another has him invoke God to make Mu‘āwiya a guide who guides others (*hādīyan mahdiyyān*).⁸⁷ Ibn ‘Abbās noted that Mu‘āwiya was learned in the religion (*faqīh*) and commenting upon his conduct as Caliph, Ibn ‘Umar stated that he had not seen anyone more apt to rule after the Prophet than Mu‘āwiya.⁸⁸ The truce between him and al-Ḥasan b. ‘Alī b. Abī Ṭālib states that al-Ḥasan will hand over to Mu‘āwiya “the government [and title] of the ‘Commander of the Believers’ so long as he acts according to the Book of Allah and the *sunna* of His prophet, Muhammad and the conduct of the righteous Caliphs.”⁸⁹ The application of the principles of good governance and peaceful co-existence during Mu‘āwiya’s rule appear to have had religious sanction by the leading companions of the Prophet, as well as his household, because they were anchored in the Qur’an and the *sunna*. As the Qur’an makes very little reference to matters pertaining to government administration, we may here argue that Mu‘āwiya’s policies were based – at least in spirit – on some official decrees issued by the Prophet and the Rightly-Guided Caliphs and which were considered authoritative by the early Muslim community.

⁸⁶ Ibid., 186-187.

⁸⁷ Aram A. Shahin, “In Defense of Mu‘āwiya ibn Abī Sufyān: Treatises and Monographs on Mu‘āwiya from the Eighth to the Nineteenth Centuries.” *The Lineaments of Islam: Studies in Honor of Fred McGraw Donner*. Edited by Paul M. Cobb. Leiden-Boston: Brill, 2012: 177-208 at 199.

⁸⁸ Ibid., 200.

⁸⁹ Ibn A‘tham, *Kitāb al-Futūḥ*, Vol. 4 (Beirut: Dār al-Aḍwa, 1991), 290-91. We have also consulted the translation of Ja‘fari. See Sayyid Husayn Muhammad Ja‘fari, *The Origins and Early Development of Shi‘a Islam* (Oxford: Oxford University Press, 2000), 151.

Shared Textual Evidence for Principles of Good Governance

Early non-Muslim testimonies on the rise of Islam recall how the Muslims were commanded by the Prophet to worship the one God and to abide by His laws. As Sebeos explains:

Abandoning their vain cults, they turned to the living God who had appeared to their father Abraham. So Mahmet legislated for them: not to eat carrion, not to drink wine, not to speak falsely, and not to engage in fornication.⁹⁰

John Bar Penkāyē elaborates on the Muslims' religious law, alluding to adherence to the Prophet's tradition that was taken very seriously by them:

Also as a result of this man's guidance (*mhaddyānūtā*) they held to the worship of the One God, in accordance with the customs of ancient law. At their beginnings they kept to the tradition (*mašlmānūtā*) of Muhammad, who was their instructor (*tār'ā*), to such an extent that they inflicted the death penalty on anyone who was seen to act brazenly against his laws.⁹¹

If we are to argue that the main precepts of Prophetic traditions had their roots in official decrees which shaped early Muslim polity, then the *Constitution of Madīna* is surely the most important of all political documents to have been issued. The principles of good governance enshrined therein and the valuational interplay between the *Constitution*, the compacts and the covenants make the case that justice was at the core of the Prophet's *sunna* and that it comprised elements of 1) constitutional governance and rule of law; 2) just rule and mutual trust; and 3) just taxation.

Constitutional Governance and Rule of Law

The *Constitution of Madīna* obliges all parties to abide by it,

⁹⁰ Sebeos, *The Armenian History*, 96.

⁹¹ Mingana, *Source Syriaques*, Vol. 1, 175; Brock, "North Mesopotamia in the Late Seventh Century," 61.

requiring all subjects of the *Constitution* to be under the rule of law. The *Constitution* states:

§22. The God-fearing believers are to abide by [this *Constitution*] to the best of their ability and in a just manner.

§43. Allah is the guarantor of he who is God-fearing with regards to this *Constitution*.

§53 and §60. Allah is the guarantor of the one who abides by this *Constitution* and who is God-fearing with regards to it.

§63. Allah is the protector of him who is righteous and God-fearing, and Muhammad is the Messenger of Allah.⁹²

All subjects of the *umma*, regardless of religion, have the right to recourse to justice, with the Prophet having been acknowledged as the final authoritative interpreter of the *Constitution*:

§52. Whoever commits an injustice or if there occurs a dispute that could lead to discord between the subjects of this *Constitution* then the case should be brought forth [for arbitration] to Allah and to Muhammad.

Declaration of war could also not be done without his permission:

§40. No one will be allowed to [go out for warfare] except with the permission of Muhammad.

Everlastingness is not specified in the *Constitution* but it is implied, as righteousness is denoted by one's perpetual adherence to it. The covenants grant religious minorities inalienable rights which can never be retracted from them. The *Covenant with the Jews of Khaybar and Maqna* states that its terms and conditions are valid "so

⁹² Michael Lecker, *The 'Constitution of Medina': Muhammad's First Legal Document* (Princeton: Darwin Press, 2004), 27-31 at 28 and 33. The numbering of the *Constitution's* clauses in this paper derive from Michael Lecker. Also see Hamidullah, *Majmū'at al-Wathā'iq al-Siyāsiyya*, 57-64.

long as the heavens are above the earth.”⁹³ The *Prophet’s Treaty with the Magi* states that it is to apply on the brother of Salmān, “his household, and their progeny after them, regardless of whether they wish to embrace Islam or if they choose to remain in their own religion,”⁹⁴ implying an everlasting nature to it. Similarly, the *Prophet’s Covenant with the Children of Israel* states:

My writ, seal and the date is my witness onto them and on my community until the Day of Judgment, and this so long as my community remains on the face of the earth.⁹⁵

Ferīdūn Beg’s recension of the *Covenant with the Monks of Sinai* states:

No one [of the Muslims] is to ever contravene this covenant (*lā yukhālifū hadhā al-‘ahd minhu abadan*) until the Hour arises and the world comes to an end.⁹⁶

The *Compact with the Christians of Najrān* shares a common memory of everlastingness when it reads:

Allah is the Guarantor of this writ and so is the protection of Muhammad the Prophet and the

⁹³ Ahmed El-Wakil, “Searching for the Covenants: Identifying Authentic Documents of the Prophet Based on Scribal Conventions and Textual Analysis” (MA diss. Hamad Bin Khalifa University, 2017), 106, section 1.

⁹⁴ Ibid, 121, section 2.

⁹⁵ Reuben Ahroni, “Some Yemenite Jewish Attitudes towards Muhammad’s Prophethood,” *Hebrew Union College Annual* (1998): 49-99 at 88 [40], 98. Ahroni’s translation has been edited by the authors. Also see Yosef Rivlin, “Šava’at Muḥammad le-‘Alī ben Abī Ṭālib,” (Heb.) in *Minḥa le-David: David Yelin’s Jubilee Volume* (Jerusalem: Va’ad ha-Yövel, 1935), 139-156 at 155. Throughout this paper we have referred to the versions of Ahroni and Rivlin because of their similarity to one another. For the other versions, the reader may consult S. D. Goitein, “Kitāb Dhimmat an-Nabī,” (Heb.) *Kiryat Sefer*, 9 (1933), 507-521. For an English translation of Goitein’s version, see Norman Stillman, *The Jews of Arab Lands: A History and Source Book* (Philadelphia: The Jewish Publication Society of America, 1979), 255-258. Also see Yehudah Nini, “Ketav ḥasūt la-Yehūdīm ha-meyūḥas lannavī Muḥammad” in *Mehqarīm be-Aggadah wuv-Fölkör Yehūdī*, (eds.) Issachar Ben-Ami and Joseph Dan, (Heb.) (Jerusalem: The Magnes Press, 1983): 157-196.

⁹⁶ Ferīdūn Beg, *Munsha’āt al-Salāḥīn*, 31. Emphasis ours.

Messenger of Allah, forever (*abadan*), until Allah comes with His command and so long as they remain faithful and adhere to its conditions, not being subject to any kinds of injustices.⁹⁷

The shared historical memory also emphasizes the gravity of Muslims breaking their treaties. The *Administrative Directive to al-'Alā' b. al-Ḥaḍramī* states “Whoever reads this writ and abandons it has fallen into error until he acquaints himself with it once again... Its commands should be fulfilled for it is a definitive admonition, a calling to Allah and His messenger to what is virtuous and to that which encompasses no evil.”⁹⁸ The *Prophet's Treaty with the Magi* states that he who goes against it “is cursed (*'alayhi al-la'na*) until the Day of Judgment,”⁹⁹ and the *Covenant with the Monks of Mount Sinai* states that whoever goes against the Prophet's stipulations is “subject to the curse (*li-l-la'na mustawjiban*) regardless of whether he be a Sultan or anyone else from among the Muslims,”¹⁰⁰ an expression that can be identically found in other covenants of the Prophet with Christian communities of his time.¹⁰¹ The *Covenant with the Children of Israel* does not mention that those who break the treaty will be cursed but it implies it when it notes that “Whoever contravenes the protection which I have granted then Allah will not bless him in what his right hand possesses, his wealth, dignity, and harvest.”¹⁰² The *Constitution of Madīna* also appears to allude that anyone who goes against it shall be cursed, but its ambiguity has to do with the word *'muḥdithan'* which is usually interpreted as a

⁹⁷ Abū Yūsuf, *Kitāb al-Kharāj*, 72-73. Emphasis ours. We are aware of other recensions where the phrase *'abadan'* occurs. See al-Shaybānī, *Al-Siyar al-Ṣaghīr* (Beirut: Al-Dār al-Mutaḥida li-l-Nashr, 1975), 267; Ibn Sa'd, *al-Ṭabaqāt al-Kubrā* (Beirut: Dār al-Kutub al-'Ilmiyya, 1990), 220; and al-Balādhurī, *Kitāb Futūḥ al-Buldān*, 87.

⁹⁸ El-Wakil, “The Prophet's Letter to al-'Alā' b. Al-Ḥaḍramī,” 7.

⁹⁹ El-Wakil, “Searching for the Covenants,” 127, section 12.

¹⁰⁰ Ferīdūn Beg, *Munsha'āt al-Salāṭīn*, 31.

¹⁰¹ El-Wakil and Nasrallah, “The Prophet Muhammad's Covenant with the Armenian Christians,” 489, section 12.

¹⁰² Ahroni, “Some Yemenite Jewish Attitudes towards Muhammad's Prophethood,” 78 [30], 96. Ahroni's translation has been edited by the authors. Also see Rivlin, “Ṣava'at Muḥammad le-'Alī ben Abī Ṭālib,” 152.

‘murderer’, though a more appropriate interpretation would be an ‘innovator’ or ‘someone who alters the *Constitution* by introducing something new to it’. The relevant clause in the *Constitution* would therefore read as follows:

§25. It is not permissible for a believer who abides by this *Constitution* and who believes in Allah and the last day to support or give aid to an innovator [intent on altering it]. Whoever supports or gives him aid shall have earned the curse of Allah and his wrath on the Day of Judgment, and neither repentance nor ransom shall be accepted from him.

The same clause has been reported in a ḥadīth in al-Bukhārī which describes some of the clauses of the *Constitution*:

Whoever causes or supports an innovator in Madīna, then such a person shall earn the curse of Allah, His angels and the whole of mankind. Allah will not accept on the Day of Judgment either his repentance or any ransom that he may give (*fa-man aḥdatha fihā ḥadathan aw awā muḥdithan fa-‘alayhi la‘nat Allāh wa malā’ikatihī wa al-nās ajma‘īn, lā yaqbal Allāhu minhu yawm al-qiyāma ṣarfan wa lā ‘adlan*).¹⁰³

It cannot therefore be a coincidence to find at the end of the *Covenant with the Jews of Khaybar and Maqna* an almost identical warning:

Whoever reads this writ of mine or to whoever it is read out and he alters or contravenes anything of what is in it, upon him shall be the curse of Allah and the curse of those who curse from among the angels and all of mankind (*‘alayhi la‘nat Allāh wa la‘nat al-lā‘inīn min*

¹⁰³ al-Bukhārī, *Ṣaḥīḥ*, (trans.) Muhammad Muhsin Khan (Riyadh: Darusalam, 1997), Vol. 3, Book 29, ḥadīth no. 1870, 69; Vol. 4, Book 58, ḥadīth no. 3172, 251-252; ḥadīth no. 3179, 256-257; Vol. 8, Book 85, ḥadīth no. 6755, 396-397; Book 96, ḥadīth no. 7300, 245-246. The ḥadīth can be found in other collections but whose recurrence would be too exhaustive to cite.

malā'ikatihī wa al-nās ajma'īn).¹⁰⁴

As the *Constitution of Madīna* consists of two documents that follow one another, it is significant that the warning we find in clause §25 would have been just before the last clause (i.e. clause §26) of the first document. The warning in clause §25 was therefore intended to emphasize that it is a grave sin to undermine or go against the *Constitution*.

Just Rule and Mutual Trust

The *Constitution of Madīna* states that all the members of the *umma* are equal under the law without discrimination:

§14. The God-fearing believers are against whoever commits a wrongdoing among them or anyone who wants to profit from an injustice, a crime, enmity or corruption between the believers. They shall all unite against him even if he should be a son of theirs.

The *Constitution* rejects collective punishment when it states:

§59. He who offends does so only against himself.

The concept of justice, being a core value of the *Constitution*, is again reiterated:

§61. This *Constitution* does not protect those who do wrong or commit sinful acts.

Though the *Constitution of Madīna* does not mention anything about holding the ruler accountable, the *Administrative Directive to al-'Alā' b. al-Ḥaḍramī* has the Prophet state "I take Allah as my witness that if I have entrusted anyone to rule over the affairs of the Muslims – whether it be by a great or small measure – and he does not act justly following his appointment, then such a person should no longer be obeyed but deposed from his position of authority."¹⁰⁵ Elsewhere the Prophet states that al-'Alā' should "be gentle with you (*yulīna lakum al-janāh*) and to act in your best of interests according

¹⁰⁴ El-Wakil, "Searching for the Covenants," 112-113, section 41.

¹⁰⁵ El-Wakil, "The Prophet's Letter to al-'Alā' b. Al-Ḥaḍramī," 3.

to the truth. I have commanded him to judge between you and the people on the basis of the precepts of justice that Allah has decreed in His book and, as long as he does this, you are obliged to obey him.”¹⁰⁶

The Prophet’s command that his subjects be treated kindly is found in a number of administrative directives to his governors in the Yemen as well as in his covenants. For example we read in the *Covenant with the Monks of Mount Sinai* that the Prophet commands the Muslims to “protect them under the wing of mercy (*wa yaḥfiẓūnahum taḥt janāḥ al-rahma*).”¹⁰⁷ The shared historical memory obliging the Muslims to treat the non-Muslims under their rule kindly is recorded in a number of texts. Ibn Sa’d’s recension of the *Compact with the Jews of Maqnā* states:

To proceed: This is what is incumbent upon the believers and the Muslims – whoever of them does good to the people of Maqnā then this is all the better for him; but as for he who does them harm then it is all the worse for him.¹⁰⁸

The Cairo Genizah recension of the Covenant with the Jews of Khaybar and Maqnā reads:

Whoever does good to Ḥanīnā and the people of Khaybar and Maqnā then this is all the better for him; but he who does them harm then it is all the worse for him.¹⁰⁹

Rivlin’s recension of the Prophet’s Covenant with the Children of Israel states:

¹⁰⁶ Ibid., 572.

¹⁰⁷ Ferīdūn Beg, *Munsha’āt al-Salāḥīn*, 31.

¹⁰⁸ Ibn Sa’d, *al-Ṭabaqāt al-Kubrā*, Vol. 1, 212. Also see El-Wakil, “Searching for the Covenants,” 112, section 38-39.

¹⁰⁹ El-Wakil, “Searching for the Covenants,” 112, section 38-39.

Whoever does good to them, it is all the better for him;
but he who does them harm then it is all the worse for
him.¹¹⁰

Equally all recensions of the *Prophet's Treaty with the Magi* read "Whoever does them good [i.e. to the Magi], does me good, and his reward is with Allah."¹¹¹ The *Prophet's Covenant with the Samaritans* pledges "to behave with them and the people of Palestine in the best possible manner."¹¹² Of particular importance is how covenants granted to Christian, Jewish and Magi communities all state that whoever of the Muslims harms a protected person, the Prophet shall be his foe on the Day of Judgment. This statement in these various covenants is found in a *ṣaḥīḥ* tradition in *Sunan* Abū Dawūd in which the Prophet is reported to have said "Whoever oppresses a person with whom we have made a contract with I shall be his foe on the Day of Judgment (*man ḡalam mu'āhidan fa anā ḡajīyuhu yawm al-qiyāma*)."¹¹³ These common themes and phrases across different documents indicate that Muslims were obliged to treat their subjects justly and with utmost respect in order to build mutual trust.

Just Taxation

The shared historical memory recalls how taxation was not to be excessive on the non-Muslim members of the *umma*. *Abū Yūsuf's* recension of the *Najrān Compact* states "*lā ya 'sirūn*" but this seems to have been a mistaken reading of the original text as Abū 'Ubayd¹¹⁴ and Ibn Zanjawayh¹¹⁵ read "*lā yu 'ashsharū*" while the recensions of

¹¹⁰ Rivlin, "Ṣava'at Muḡammad le-'Alī ben Abī Ṭālib," 151-152.

¹¹¹ El-Wakil, "Searching for the Covenants," 127, section 12.

¹¹² Abū al-Faḡḡ b. Abī al-ḡasan al-Sāmīrī, *Kitāb al-Tārīkh mimā taqdamā 'an al-abā. Annales Samaritani: Quos ad Fidem Codicum Manu Scriptorum Berolinensium Bodlejani Parisini* (ed. Eduardus Vilma; Gothae: Sumtibus Friderici Andreae Perthes, 1865), 174. Also see p. 175 for the version written by 'Alī.

¹¹³ Abū Dāwūd, *Sunan*, Vol. 4 (Beirut: Dār al-Risāla al-'Alāmiyya, 2009), ḡadīth no. 3052, 658. For a detailed discussion see El-Wakil, "Whoever Harms a Dhimmī I Shall Be His Foe on the Day of Judgment."

¹¹⁴ Abū 'Ubayd, *Kitāb al-Amwāl* (Beirut: Dār al-Shurūq, 1989) ḡadīth no. 504, 281.

¹¹⁵ Ibn Zanjawayh, *Kitāb al-Amwāl* (Riyadh: Markaz al-Mālik Fayṣal lil-Buḡūth wa al-Dirāsāt al-Islāmiyya, 1986) ḡadīth no. 752, 473.

al-Shaybānī,¹¹⁶ *al-Balādhurī*,¹¹⁷ and *Ibn Shabba*¹¹⁸ read “*lā yu’shsharūn.*” *The Covenant with the Jews of Khaybar and Maqna* states “You shall not be required to pay the tithe (*lā tu’ashsharūn*)”¹¹⁹ and all recensions of the *Prophet’s Treaty with the Magi* state that they will “not have to pay the tithe (*wa lā ‘ushr*),”¹²⁰ except for Jeejeebhoy’s recension which mistakenly reads the text as “*wa lā nashr.*”¹²¹ Prohibition of taking the tithe is also stated in the *Covenant with the Monks of Mount Sinai* when it stipulates that the monks “are neither required to pay land taxes nor the tithe (*wa lā ‘ushr*) from what they grow.”¹²² It also explains:

I remove from them all mischief that people of the covenant have to bear of supplies which they give as land taxes (*kharāj*) except that it be of their own volition (*illa mā-ṭābit lahu anufūsihim*).¹²³

The Prophet’s Covenant with the Children of Israel explains:

Whoever rules them, let him not take anything from them, except the poll-tax, in accordance with what they have, the rich according to his ability, and the poor according to his poverty.¹²⁴

A tradition on the authority of Ibn ‘Abbās rebukes a group of Muslims in their treatment of the protected people stating: “Their wealth is not lawful to you except that it be of their own volition (*illa bi-ṭīb anfusihim*).”¹²⁵ Another variant reported by ‘Abd al-Razzāq has Ibn ‘Abbās say: “If they pay the *jizya*, their wealth is not lawful

¹¹⁶ *al-Shaybānī*, *Al-Siyar al-Ṣaghīr*, 267.

¹¹⁷ *al-Balādhurī*, *Kitāb Futūḥ al-Buldān*, 88.

¹¹⁸ *Ibn Shabba*, *Tārīkh al-Madīna*, Vol. 2 (Jeddah: Al-Sayyid Ḥabīb Aḥmad, 1399 AH), 585.

¹¹⁹ El-Wakil, “Searching for the Covenants,” 108, section 20.

¹²⁰ *Ibid.*, 125, section 8.

¹²¹ *Ibid.*

¹²² Ferīdūn Beg, *Munsha’āt al-Salāṭīn*, 31.

¹²³ *Ibid.*

¹²⁴ Ahroni, “Some Yemenite Jewish Attitudes towards Muhammad’s Prophethood,” 80 [32], 96; Rivlin, “Ṣava’at Muḥammad le-‘Alī ben Abī Ṭālib,” 152-153.

¹²⁵ *Ibn Zanjawayh*, *Kitāb al-Amwāl*, ḥadīth no.624, 382.

to you except that it be by their own volition (*illa bi-tīb anfusihim*).¹²⁶ There is clearly here a shared historical memory that the Prophet's political documents emphasized taxation to be according to people's capabilities with the aim of implementing a reasonable economic differentiation between the rich and the poor. All of the Prophet's covenants with Christian communities exempt monks from taxation, and interestingly enough, we find a confirmation of this recorded by al-Ḥakīm al-Tirmidhī in the directives Abū Bakr gave to his generals: "Those who have confined themselves to monasteries are to be left alone. They are not to be asked for the *jizya* because they have renounced this world."¹²⁷ Religious institutions, as well as all individuals who have devoted themselves to religious service are therefore exempt from all taxation under the Pax Islamica.

Shared Textual Evidence for Peaceful Co-existence

The shared historical memory recalls a valuational approach to peaceful co-existence that guarantees the People of the Book with safety and security; religious freedom; and intercommunal justice.

Granting Safety and Security to Non-Muslims

The *Constitution of Madīna* states that the protection of Allah is extended to all members of the *umma*, as elaborated in clause §16:

§16. The protection of Allah is one, it is extended to all of them, regardless of rank (*wa-inna dhimmat Allāh wāḥida, yujīru 'alayhim adnāhum*).

The *Compact with the People of Najrān* which was in all possibility granted to both Najrān's Christian and Jewish populations reflects how the Prophet's protection was extended to all non-Muslim members of the *umma*. It reads:

Najrān and its surrounding area has the protection of Allah and the protection of Muhammad (*jiwār Allāh wa*

¹²⁶ 'Abd al-Razzāq, *al-Muṣanaf*, Vol. 6 (South Africa: al-Majlis al-'Ilmī, 1970), 91.

¹²⁷ al-Ḥakīm al-Tirmidhī, *Nawādir al-Uṣūl*, Vol. 1 (Cairo: Maktaba al-Imām al-Bukhārī, 2008), 38.

dhimmat Muḥammad), the Prophet and Messenger of Allah, peace and blessings be upon him, over their wealth, lives, land, and creed (*‘alā amwālihim wa anfushihi wa arḍiḥim wa milatiḥim*), those who are absent and those who are present, as well as their clans and allies, and everything that is in their possession whether it be little or great.¹²⁸

The *Prophet’s Compact with Yuḥannā b. Rū’ba* recorded by Ferīdūn Beg also emphasizes how the Christians “have the protection of Allah and the protection of Muhammad the Prophet (*lahum dhimmat Allāh wa dhimmat Muḥammad al-nabī*).”¹²⁹ The concept of granting non-Muslims the protection of Allah and His messenger finds another echo in all recensions of the Prophet’s written guarantee to the Jews. We therefore find in the recensions of al-Balādhurī and Ibn Sa’d and in the Cairo Genizah manuscript discovered by Hartwig Hirshfeld that the Prophet informed them “You have the protection of Allah and His messenger (*lakum dhimmat Allāh wa rasūlihi*).”¹³⁰ Jejeehboy’s recension of the *Prophet’s Covenant with the Magi* states that his community “has been granted the protection of Allah as well as his descendants (*lahu dhimmat Allāh wa ‘alā abnā’ihi*)”¹³¹ while the recensions of Ṭabarsī and al-Zanjānī which were derived from a copy of the same Parsi text as Jejeehboy read slightly differently, noting that “They have the protection of Allah and the protection of the Messenger of Allah (*lahum dhimmat Allāh wa dhimmat rasūl Allāh*).”¹³² The Islamic recensions of Abū al-Shaykh al-Asfahānī, Abū Nu’aym and al-Shirāzī all state “They have the protection of Allah and my protection (*lahum dhimmat Allāh wa dhimmatī*).”¹³³ The Prophet states on two occasions in his *Covenant with the Children of Israel* that they have “my protection and my covenant (*dhimmatī wa ‘ahdī*).”¹³⁴ The covenants in the possession of

¹²⁸ Abū Yūsuf, *Kitāb al-Kharāj*, 72.

¹²⁹ Ferīdūn Beg, *Munsha’āt al-Salāṭīn*, 33.

¹³⁰ El-Wakil, “Searching for the Covenants,” 106, section 8.

¹³¹ *Ibid.*, 124, section 6.

¹³² *Ibid.*

¹³³ *Ibid.*

¹³⁴ Rivlin, “Ṣava’at Muḥammad le-‘Alī ben Abī Ṭālib,” 150; Ahroni, “Some

Christians further emphasize the Prophet's protection in the strongest of terms and we read in the Prophet's Master Template that:

My protection and pledge is the most stringent that Allah has taken from a prophet who has been sent or from an angel who is stationed near [the divine throne].¹³⁵

The *Najrān Compact* and the Cairo Genizah recension of the *Covenant with the Jews of Khaybar and Maqna* both state that “no army shall tread on your land (*lā yaṭa’ arḍakum jaysh*)”¹³⁶ stressing the protection guaranteed to the non-Muslims. The Prophet's example was followed by his Companions, with Dionysius¹³⁷ and al-Wāqidī¹³⁸ both reporting that the Muslims in the time of ‘Umar had given a written guarantee to the people of Damascus to ensure their protection. The opening of this important document is recorded by Eutychius Patriarch of Alexandria (d. 940 CE) as follows:

This is a writ from Khālid b. al-Walīd to the people of Damascus: I have protected your lives, houses, wealth and your churches which are neither to be destroyed nor inhabited (*wa kanā’isahum allā tuhdam wa lā tuskan*) and for them to be administered by yourselves.¹³⁹

Ibn ‘Asākir also reports in his *Tārīkh Madīnat Dimashq* a shared historical memory of how Khālid pledged to protect the Damascenes' lives, homes, wealth and churches, and just like Eutychius he notes how the original *Treaty* stipulated that their places of worship should

Yemenite Jewish Attitudes towards Muhammad's Prophethood,” 70 [22] and 72 [24].

¹³⁵ El-Wakil and Nasrallah, “The Prophet Muhammad's Covenant with the Armenian Christians,” 490, section 16. English has translation is ours.

¹³⁶ El-Wakil, “Searching for the Covenants,” 108, section 20; Abū Yūsuf, *Kitāb al-Kharāj*, 72.

¹³⁷ Palmer, *The Seventh Century*, 154-155, 157.

¹³⁸ al-Wāqidī, *The Islāmic Conquest of Syria: A Translation of Futūhushām: The Inspiring History of the Sahābah's Conquest of Syria*, (trans.) Mawlānā Sulaymān al-Kindī (London: Tāhā Publishers, 2009), 132.

¹³⁹ Eutychius Patriarch of Alexandria, *Annales*, Vol. 7 (Beirut: E Typographeo Catholica, 1909), 15.

“neither be destroyed nor inhabited”.¹⁴⁰ Two of Ibn ‘Asākir’s recensions, as well as that of al-Balādhurī, state that the people of Damascus have been granted “the protection of Allah, His Messenger (peace and blessings be upon him), the Caliphs and the believers.”¹⁴¹ This latter clause suggests that giving non-Muslims the protection of Allah and His messenger was not only entrenched in the Prophet’s political documents but that this obligation was extended after his death to the Caliphs and to the believers at large. The recensions of ‘Umar’s *Capitulation Treaty with the Christians of Jerusalem* recorded by Eutychius and the Coptic historian Jirjis b. al-‘Amīd al-Makīn (d. 1273 CE) specify that it too guaranteed that their churches neither “be destroyed nor inhabited.”¹⁴² This is also conveyed in the recension recorded by al-Ṭabarī, that “their churches are neither to be inhabited nor destroyed (*wa anahu lā tuskan kanā’isahum wa lā tuhdam*).”¹⁴³ Just like the *Treaty with the People of Damascus*, al-Ṭabarī’s version also specifies how the Christians of Jerusalem have “the protection of Allah, His Messenger (peace and blessings be upon him), the Caliphs and the believers.”

Similarly, to the *Compact with the People of Najrān* and all recensions of the *Treaty with the People of Damascus*¹⁴⁴ which guaranteed protection for the non-Muslims’ lives, wealth and religion, the *Prophet’s Covenant with the Samaritans* reads:

I, Muhammad b. ‘Abdullah b. ‘Abd al-Muṭṭalib, have commanded that a covenant of protection and security (*amān wa dhimām*) be written to the Samaritan community for their persons, their children, their property, their wealth, their places of worship, their

¹⁴⁰ Ibn ‘Asākir, *Tārīkh Madīnat Dimashq* (Beirut: Dār al-Fikr, 1995), Vol. 2, 117-18, 180-81, 354-355; Vol. 6, 59.

¹⁴¹ al-Balādhurī, *Kitāb Futūḥ al-Buldān*, 166 ; Ibn ‘Asākir, *Tārīkh Madīnat Damashq*, Vol. 2, 354; Vol. 6, 59.

¹⁴² Eutychius, *Annales*, Vol. 7, 17. Jirjis b. al-‘Amīd al-Makīn (Georgius Elmacinus), *Historia Saracenicā Arabicè & Latinè* (ed. and trans.) Thomas Erpenius (*Lugduni Batavorum*, 1625), 28.

¹⁴³ al-Ṭabarī, *Tārīkh*, Vol. 3 (Leiden: Brill, 1879), 105.

¹⁴⁴ See Ibn Zanjawayh, *Kitāb al-Amwāl*, ḥadīth no. 752, 473. Ibn Zanjawayh’s recension, which is the shortest of them all, and which has Khālīd b. al-Walīd state “I have protected their lives, their wealth and their churches.”

financial endowments, and to be binding in all the provinces and places in which they reside.¹⁴⁵

All recensions of the *Prophet's Treaty with the Magi* state that they have been guaranteed protection “over their lives, their wealth and the land on which they live in (*‘alā dimā’ihim wa amwālihim wa al-ard al-latī aqāmū ‘alayhā/yaqīmūn fihā*)”¹⁴⁶ and the Cairo Genizah recension of the *Covenant with the Jews of Khaybar and Maqna* states that they have protection “over their lives, religion, wealth (*alā anfushikum wa dīnikum wa amwālikum*), slaves and whatever is in their possession.”¹⁴⁷ *Alī's Covenant with the Magi* states “I have protected your lives, wealth, wives and offspring. I have given you the covenant of Allah and His protection as well as the protection of His messenger Muhammad, peace and blessings be upon him.”¹⁴⁸ The textual parallelisms between various documents granted to non-Muslim communities suggests that granting them the protection of Allah and His messenger over their lives, wealth, land and creed must have derived from a Prophetic decree. The textual evidence provided herein demonstrates how the Muslims were both legally and ethically obliged to protect and safeguard the rights of the non-Muslim communities living amongst them.

Religious Freedom

Though religious freedom in Islam is not what we understand it to be today as reflected in the Universal Declaration of Human Rights, Muslim jurists nevertheless articulated that protection of religion is one of the five universal values enshrined in *maqāṣid al-sharī‘a* (the objectives of Islamic law). Relatively speaking, and despite the punishment of death for apostasy having been advocated by classical jurists, Islam did provide its non-Muslim subjects with religious freedom.

¹⁴⁵ Abū al-Faṭḥ al-Sāmīrī, *Kitāb al-Tārīkh*, 174. The covenants were re-written with the same clauses, worded slightly differently, by ‘Alī. See p. 175.

¹⁴⁶ El-Wakil, “Searching for the Covenants,” 124, section 6.

¹⁴⁷ *Ibid.*, 107, section 14.

¹⁴⁸ *Ibid.*, 131, section 3.

Clause §28 of the *Constitution of Madīna* states “The Jews have their religion and the Muslims have theirs.” This notion of protecting religious freedom can be found in the *Prophet’s Compact with the Magi* when it includes the Qur’anic verse “There is no compulsion in religion (Q2:256).”¹⁴⁹ Though this Qur’anic verse cannot be found in the Parsi recensions, it can nevertheless be found in the Cairo Genizah recension of the *Covenant with the Jews of Khaybar and Maqna*.¹⁵⁰ This same Qur’anic verse can also be found in *‘Alī’s Covenant with the Magi*¹⁵¹ and *‘Umar’s Covenant with the Christians of Mesopotamia*.¹⁵² The *Prophet’s Covenant with the Children of Israel* and his covenants with the Christian communities of his time do not cite Q2:256, but they do nevertheless stress, using different terminology, that they will never be forced to embrace Islam.

Respect for the non-Muslims’ religious authorities is stated in all of the covenants, and the *Compact with the People of Najrān* informs us:

No bishop, monk or kāhin shall be removed from his position (*wa lā yughayyar usquf min usqafīyyatihi, wa lā rāhib min rahbāniyyātihi, wā lā kāhin min kahānatihi*).¹⁵³

The use of the word *kāhin* is particularly telling for though it can mean a ‘priest’, it can also mean a ‘rabbi’. Not only is this clause to be found with slight variations in all recensions of the Compact with the *People of Najrān*, but astonishingly enough it is echoed in the *Prophet’s Covenant with the Christians of Najrān* when it reads:

No bishop, monk or hermit shall be removed from his position (*lā tughayyar usquf ‘an usqafīyyatihi, wa lā*

¹⁴⁹ El-Wakil, “Searching for the Covenants,” 124, section 5.

¹⁵⁰ Ibid., 111, section 29.

¹⁵¹ Ibid., 134, section 10.

¹⁵² Addai Scher, *Histoire Nestorienne Inédite: Chronique de Séert, Deuxième Partie* (Patrologia Orientalis, Tome XIII, Fascicule 4, No. 65, 1918), (Turnhout: Brepols, 1983), 622, [302]. For the French translation of Q2:256, see 621, [301].

¹⁵³ Abū Yūsuf, *Kitāb al-Kharāj*, 72.

*rāhib ‘an rahbāniyyātihi, wā lā sāl’ih ‘an sāl’ihātihi).*¹⁵⁴

The above clause can also be found in all of the covenants of the Prophet with the Christian communities of his time more or less verbatim. For example, we read in the *Covenant with the Monks of Mount Sinai* recorded by Ferīdūn Beg:

No bishop, monk, ascetic or hermit shall be removed from his position (*wa lā yughayyar usquf min usqufiyyātihi, wa lā rāhib min rahbāniyyātihi, wā lā jalīs min šūma‘ātihi wa lā sāl’ih ‘an sāl’ihātihi).*¹⁵⁵

Abū Bakr’s Compact with the People of Najrān also states:

No bishop or monk shall be removed from his position (*wa lā yughayyar usquf min usqafīyyātihi, wa lā rāhib min rahbāniyyātihi*) and all which was decreed to them by Muhammad, the Prophet – peace and blessings be upon him – shall be granted to them.¹⁵⁶

‘Umar’s Covenant with the Christians of Mesopotamia states:

No bishop and religious leader of yours shall be removed from his position (*wa lā yughayyar lakum usquf min asāqīfatikum, wa lā ra’īs min rū’asā’ikum).*¹⁵⁷

‘Alī’s Covenant with the Armenian Christians records that “The monks and hermits should not be disturbed in their solitudes, nor removed from their monasteries.”¹⁵⁸ Ferīdūn Beg’s recension of the *Compact with Yuḥannā b. Rū’ba*, just like that of al-Qastallānī, al-Bayhaqī and al-Maqrīzī, reads that the people of Ayla have the protection of Allah and His messenger “for their bishops and their

¹⁵⁴ Scher, *Chronique de Séert*, 612, [292].

¹⁵⁵ Ferīdūn Beg, *Munsha’āt al-Salāḥīn*, 31. Also see El-Wakil and Nasrallah, “The Prophet Muhammad’s Covenant with the Armenian Christians,” 493-94, section 24.

¹⁵⁶ Abū Yūsuf, *Kitāb al-Kharāj*, 73. Also see al-Ṭabarī, *Tārīkh*, Vol. 2, 535.

¹⁵⁷ Scher, *Chronique de Séert*, 621, [301].

¹⁵⁸ Johannes Avdall, ‘A Covenant of ‘Alī, fourth Caliph of Baghdād, granting certain Immunities and Privileges to the Armenian nation,’ *Journal of the Asiatic Society of Bengal*, 1/39 (1870): 60-64, at 63.

whole population (*asāqifatum wa sā'iruhum*)”¹⁵⁹ which is in harmony with the covenants’ stipulation of protecting the Christian clergy. The Qur’anic principle that there is no compulsion in religion is therefore widely attested in those treaties, giving the non-Muslims full authority over their religious affairs.

Intercommunal Justice

The *Constitution of Madīna* appears to allude to different types of relationships that the Muslims formulated with non-Muslim populations. The first type of relationship between the Muslims and non-Muslims was one of full equality in all respects and which meant that the non-Muslims had to participate in warfare along with the Muslims. As the first clause of the *Constitution* explains:

§1. This is a Compact from Muhammad the Prophet between the believers and the Muslims, of Quraysh and Yathrib, and whoever follows them and joins them, and performs *jihād* with them.

Clauses §18 and §27 elaborate on clause §1 by stating:

§18. The Jews who follow us [in performing *jihād*] will receive aid and equal rights, they will not be wronged nor will their enemies be aided against them.

§27. The Jews share the war expenditure with the believers so long as they are at war.

Though it is true that many of the Prophet’s official decrees state that anyone who becomes a Muslim has the same rights and obligations as the rest of the Muslims, this injunction seems to have been with regards to warfare. The mutual rights and obligations of those who militarily ally themselves with the Muslims are consequently stressed in the majority of the Prophet’s correspondence with the people of Yemen. The Yemen Governance Template states “Whoever accepts

¹⁵⁹ To read the full text see al-Qaṣṭallānī, *Al-Mawāhib al-Ladunniyya bil-Mināh al-Muḥammadiyya*, Vol. 2 (Beirut, Damascus, Amman: Al-Maktab al-Islāmī, 2004), 152. Also see Hamidullah, *Majmū‘at al-Wathā’iq al-Siyāsiyya*, 118, line 3 for an examination of the variant readings of this clause.

Islam (*wa-man ajāba ilā al-islām*) has the same rights and obligations as we do (*fa-lahu mā lanā wa-‘alayhi mā ‘alaynā*).¹⁶⁰ The *Administrative Directive to Mu‘ādh b. Jabal* explains that “whoever witnesses that there is no god but Allah and that Muhammad is His slave and messenger, and he has submitted after hearing [this message] by obeying Him, he is a Muslim having the same rights as the rest of the Muslims and having the same obligations as they do (*lahu mā li-al-muslimīn wa-‘alayhi mā ‘alayhim*).”¹⁶¹ A similar expression is present in the Ibn Ishāq recension of the *Letter to the Kings of Ḥimyar* in which the Prophet states “Whoever does this [i.e. the payment of alms], declares his acceptance of Islam (*ashhada ‘alā islāmihi*), and supports the believers against the polytheists, then he is of the believers, he has the same rights and obligations as they do (*lahu mā lahum wa ‘alayhi mā ‘alayhim*) having the protection of Allah and the protection of His messenger. Whoever of the Jews and Christians submits then he is [also] of the believers, he has the same rights and obligations as they do (*lahu mā lahum wa ‘alayhi mā ‘alayhim*).”¹⁶² Similarly, one of the recensions of the *Letter* reported by al-Ya‘qūbī states “Whoever of the Jews and Christians submits then he is [also] of the believers, having the same rights and obligations as they do (*lahu mithlu mā lahum wa ‘alayhi mā ‘alayhim*).”¹⁶³ The *Administrative Directive to al-‘Alā’ b. al-Ḥaḍramī* states “whoever has accepted this invitation seeking and wanting to do good to himself has become a believing, righteous, God-fearing, faithful Muslim who partakes in *jihād*. Such a person has the same rights and obligations as you do (*lahu mā lakum wa ‘alayhi ma ‘alaykum*).”¹⁶⁴

The second category would have been those non-Muslim communities who were recipients of a treaty and who agreed to pay the *jizya* in return for being exempted from military service. Jejeebhoy’s recension of the *Covenant with the Magi* as well as Abū

¹⁶⁰ El-Wakil, “The Prophet’s Letter to al-‘Alā’ b. Al-Ḥaḍramī,” 11.

¹⁶¹ Ibid., 12.

¹⁶² Ibn Ishāq, *Sīrat Rasūl Allah*, Vol.4 (Beirut: Dār al-Kitāb al-‘Arabī, 1990), 232. Also see Hamidullah, *Majmū‘at al-Wathā‘iq al-Siyāsiyya*, 221.

¹⁶³ al-Ya‘qūbī, *Tārīkh*, Vol.1 (Beirut: Sharikat al-‘Alamī lil-Matbū‘āt, 2010), 402-03.

¹⁶⁴ El-Wakil, “The Prophet’s Letter to al-‘Alā’ b. Al-Ḥaḍramī,” 6.

al-Shaykh and Abū Nu‘aym’s recensions of the *Compact* state that the Prophet has exempted them from “*military service (al-ḥashr)*.”¹⁶⁵ Such exemption is found in the *Najrān Compact* and reads in the recensions of Abū ‘Ubayd¹⁶⁶ and Ibn Zanjawayh¹⁶⁷ as “*lā yuḥsharū*,” and in the recensions of al-Shaybānī,¹⁶⁸ al-Balādhurī,¹⁶⁹ and Ibn Shabba¹⁷⁰ as “*lā yuḥsharūn*” though it appears to have been misread by Abū Yūsuf as “*lā yukhsarūn*”¹⁷¹ because of unclear diacritics. An almost identical clause can be found in the *Covenant with the Jews of Khaybar and Maqna* when it reads “you shall not be gathered for military service (*wa lā tuḥsharūn*).”¹⁷² Clause §23 of the *Constitution of Madīna* appears to make reference to the non-Muslims paying the *jizya* in return for exemption from military service when it states that polytheists could remain within the Pax Islamica so long as they did not support Quraysh:

§23. A polytheist will neither grant money nor send a fighter to join the side of Quraysh and support him against a believer.

Clause §36 states that the Banū al-Shuṭayba were granted the same rights as the Jews even though they were polytheists, and the following clauses of the *Constitution* illustrate the equality of all members of the *umma*:

§44. Obligatory upon the Jews is their expenditure and upon the Muslims theirs.

§45. They will aid each other against whoever is at war with the people of this treaty.

§46. There is among them sincere advice and counsel.

§48. A man will not betray his client; aid will be

¹⁶⁵ Ibid., 125, section 8.

¹⁶⁶ Abū ‘Ubayd, *Kitāb al-Amwāl*, ḥadīth no. 504, 281.

¹⁶⁷ Ibn Zanjawayh, *Kitāb al-Amwāl*, ḥadīth no. 732, 450.

¹⁶⁸ Hamidullah, *Majmū‘at al-Wathā‘iq al-Siyāsiyya*, 176.

¹⁶⁹ al-Balādhurī, *Kitāb Futūḥ al-Buldān*, 88.

¹⁷⁰ Ibn Shabba, *Tārīkh al-Madīna*, 585.

¹⁷¹ Abū Yūsuf, *Kitāb al-Kharāj*, 72.

¹⁷² El-Wakil, “Searching for the Covenants,” 108, section 20.

provided to the oppressed.

§50. The protected neighbor is like one's self, he is neither to be wronged nor be a wrongdoer.

It is particularly noteworthy how the *Constitution of Madīna* alludes to how the Muslims and non-Muslims are a single community with equal rights regardless of their participation in warfare. Clause §28 makes it clear that the Jews “are a community with/of the believers.” Equality among the believers and religious freedom are highlighted in the Parsi recensions of the *Covenant with the Magi* which state “Whoever believes in me and believes as truthful what has been revealed to me from my Lord has the same rights and obligations as we do (*fa-lahu mā lanā wa ‘alayhi mā ‘alaynā*), he has honour in this life and happiness in the blessed gardens with the angels who are near [to Allah], the prophets and the messengers, and he has security and safeguard from the punishment of hell.”¹⁷³ The Prophet then emphasizes that whoever of them refuses to embrace Islam is to remain in his ancestral religion unmolested, quoting Q2:256. Though non-Muslims who did not participate in warfare paid the *jizya*, their equal rights as subjects of the Pax Islamica was nevertheless stressed. The value of life in the following clause would therefore have applied to all members of the *umma*:

§24. Whoever kills a believer intentionally and should undisputed evidence of this murder exist, then the murderer shall be slain in retaliation unless the next of kin accepts [the blood money]. All the believers shall be [united] against him and it is not permissible for them not to act against him.

Though equality of status is implied in the *Constitution of Madīna* and the Parsi recensions of the *Covenant with the Magi*, it is explicitly stated in the Christian covenants. We therefore read in the *Sionita Covenant*: “I have given them [i.e. the Christians] the covenant of Allah so that they have the same rights and obligations as the Muslims and so that the Muslims have the same rights and obligations as they do (*lahum mā li-l-muslimīn wa ‘alayhim mā ‘alā*

¹⁷³ Ibid., 123, section 4.

al-muslimīn wa li-l-muslimīn mā lahum wa ‘alā al-muslimīn mā ‘alayhim).”¹⁷⁴ A similar expression can also be found in the *Covenant with the Armenian Christians* when it reads “They have the same rights and obligations as the Muslims (*fa-lahum mā li-l-muslimīn wa ‘alayhim mā ‘alā al-muslimīn*)”¹⁷⁵ and also in the *Najrān Covenant* when it states: “They have the same rights and obligations as the Muslims while the Muslims have the same obligations as they do (*lahum mā li-l-muslimīn wa ‘alayhim mā ‘alā al-muslimīn wa ‘alā al-muslimīn mā lahum*) and this according to the pact which they have received giving them inalienable rights of protection and security which remove from them all mischief, and this until the Muslims are equal to them in the rights and obligations that they mutually enjoy and owe (*fi-mā lahum wa fi-mā ‘alayhim*).”¹⁷⁶ A similar clause can also be found in ‘Alī’s *Covenant with the Armenian Christians* when it states: “If they remain steadfast in the observance of this Covenant, they [i.e. the Armenian Christians] shall resemble the *Musalmāns* and the *Múmins*.”¹⁷⁷ Finally we may here point to the ḥadīth on the authority of ‘Alī in which he summarized the contents of the *Constitution of Madīna* by explaining that:

It [i.e. the *Constitution of Madīna*] had in it legal regulations for blood-money, the ransom due for the release of captives, and judgment that no Muslim should be killed in retaliation for a *kāfir*.¹⁷⁸

This ḥadīth is in fact an explanation of clause §15 which states:

§15. A believer shall not kill a believer in retaliation for a *kāfir*. He will also not aid a *kāfir* against a believer.

The reference to a *kāfir* in the *Constitution of Madīna* and in the

¹⁷⁴ Sionita, *Testamentum*, 9.

¹⁷⁵ Hamidullah, *Majmū‘at al-Wathā‘iq al-Siyāsiyya*, 558.

¹⁷⁶ Scher, *Chronique de Séert*, 614, [294].

¹⁷⁷ Avdall, ‘A Covenant of ‘Alī, fourth Caliph of Baghdād,’ 62.

¹⁷⁸ al-Bukhārī, *Ṣaḥīḥ*, Vol. 9, Book 87, ḥadīth no. 6903, 35-36; Also see ḥadīth no. 6915, 40. Translation has been edited by authors.

ḥadīth was not to a non-Muslim member of the *umma* but rather to a non-Muslim living amongst a people who were at war with the Muslims. This is clarified in another tradition by ‘Alī in which he explained “If a Muslim kills a Christian, then he is to be killed in retaliation.”¹⁷⁹ A tradition reported by al-Zuhrī states “The blood money of a Jew and Christian in the time of the Prophet, peace and blessings be upon him, was the same as that of a Muslim.”¹⁸⁰ Ibn ‘Abbās informs us: “The Prophet, peace and blessings be upon him, made the blood money of those who had a covenant the same as that of a Muslim.”¹⁸¹ Al-Zuhrī also narrates: “The blood money of a person who had a covenant (*al-mu‘āhid*) in the time of Abū Bakr, ‘Umar and ‘Uthmān, may Allah be pleased with them, was the same as that of a free Muslim.”¹⁸² Ibn al-Makīn reports that the Prophet had instructed ‘Umar to tell the Christians: “Say to them that their lives, wealth and honour is exactly the same as ours.”¹⁸³ Ibn al-Makīn adds: “This was the evidence that *shaykh al-Islām* Imām Abū Ḥanīfa used in allowing the killing of a Muslim in retaliation for a protected person.”¹⁸⁴

Finally, we may here point out that there was a third category of people, namely those tribes who had adopted a neutral position, neither siding with the Muslims nor with the Quraysh, but who remained outside the Pax Islamica. As Lecker has suggested, the Banū Qaynuqā’, Naḍīr and Qurayza all received non-belligerency treaties which may perhaps explain why they were not signatories to the *Constitution*.¹⁸⁵ As clause §62 of the *Constitution* explains:

§62. He who opts out of the alliance is safe and he who remains in it is also safe, except he who acts unjustly and wrongs [the members of the Pax Islamica].

¹⁷⁹ al-Shāfī, *Kitāb al-Umm*, Vol. 7 (Beirut: Dār al-Fikr, 1983), 339.

¹⁸⁰ al-Shawkānī, *Nayl al-Awtār*, Vol. 7 (Beirut: Dār al-Jīl, 1973), 223.

¹⁸¹ *Ibid.*, 224.

¹⁸² al-Shāfī, *Kitāb al-Umm*, Vol. 7, 339.

¹⁸³ Ibn al-Makīn, *Historia Saracenicā*, 11.

¹⁸⁴ *Ibid.*

¹⁸⁵ See Michael Lecker, “Did Muhammad Conclude Treaties with the Jewish Tribes Naḍīr, Qurayza and Qaynuqā’?”, *Israel Oriental Studies XVII – Dhimmis and Others: Jews and Christians and the World of Classical Islam*, edited by Uri Rubin and David J. Wasserstein (Tel Aviv: Eisenbrauns, 1997), 29-36.

Such tribes which were at peace with the Muslims were not part of the Pax Islamica but were also not allied to their enemies. As we have demonstrated, there is sufficient evidence from the shared historical memory that inter-communal justice guaranteed equal rights to Muslims and non-Muslims who were living side by side under the Pax Islamica.

Conclusions

The rediscovery of the covenants has aroused much intrigue over their provenance, yet the common phrases and expressions that exist between them and various documents and traditions in the Islamic sources all point to a shared historical memory of which the *Constitution of Madīna* played a central role. A tradition on the authority of ‘Umar from the Prophet summarizes the valuational content of the covenants. The ḥadīth has ‘Umar declare: “I urge him [i.e. the new Caliph] to retain the protection of Allah and of His messenger (*dhimmat Allāh wa dhimmat rasūlihi*) – peace and blessing be upon him – to uphold the covenant that has been granted to them, to fight on their behalf, and not to over-tax them beyond their ability.”¹⁸⁶

Our first source for the shared historical memory are the covenants that have been preserved in the custody of non-Muslim communities and which allegedly date back to the Prophet and the Rightly-Guided Caliphs’ time. Our second source are the compacts and the ḥadīth found in various Muslim historical works. The third are independent Islamic texts which are different from the treaties such as the *Constitution of Madīna* and the Prophet’s administrative decrees.

As the original official decrees issued by the Prophet and the Rightly-Guided Caliphs seem to have been lost, we will never know for sure what was in them. Nevertheless, this does not detract us from the fact that political documents were once issued as official decrees. Though no doubt the Islamic tradition contains many problematic texts when it comes to inter-faith relations, we nevertheless do find

¹⁸⁶ al-Bukhārī, *Ṣaḥīḥ*, Vol. 2, Book 23, ḥadīth no. 1392, 274; Vol. 4, Book 56, ḥadīth no. 3052, 179; Vol. 5, Book 62, ḥadīth no. 3700. Also see Abū Yūsuf, *Kitāb al-Kharāj*, 125. Translation has been edited by authors.

texts, or portions of texts, that are echoed in the covenants and from which a valuational approach emerges whereby the spirit of these official decrees can be reconstructed in light of the *Constitution of Madīna*.

A distinction must of course be made between the values enshrined in the shared historical memory at the theoretical realm and their actual historical realization. Even though the extent of the recognition of the covenants throughout history is not clear, there is evidence that they were – at least in spirit – granted some sort of legitimacy by Muslim authorities such as the Fāṭimids and the Ottomans. The shared historical memory as a hermeneutical device may therefore be the first step in making sense of how these documents came into existence and to understand how they shaped the relationship between Muslim rulers and their non-Muslim subjects throughout history.

Despite the critical problems that emerge from the historical and textual analysis of the covenants, the shared historical memory as an intellectual device has demonstrated that there is a valuational and textual relationship between them and the Muslim sources. The shared historical memory can thus significantly contribute to the fusion of both sources at the valuational level to reconstruct a shared religious imagination in which, we may argue, the principles of good governance and peaceful coexistence were once enshrined in the Prophet and the Rightly-Guided Caliphs' official decrees. These values, no doubt, have the potential to positively influence the future of inter-faith relations.