

## THE CONSTITUTION OF MEDINA

The following text is adapted from the translation of R. B. Serjeant, formerly Sir Thomas Adams Professor of Arabic at Cambridge University, given in "The Sunnah Jami'ah, Pacts with the Yathrib Jews, and the Tahrim of Yathrib: Analysis and Translation of the Documents Comprised in the So-called 'Constitution of Medina'," BSOAS, 51 (1978), pp. 1-42.

Prof. Serjeant has proposed a rather controversial division of the "Constitution" into eight separate documents, each composed at a different moment of the Prophet's career in Medina and related to a specific historical situation. I have followed this division here, and after each section I have included a paraphrase of Prof. Serjeant's explanatory notes. The "Constitution of Medina" as it has come down to us is embedded in Ibn Ishaq's Sirat Rasūl Allāh, composed ca. 765 A.D. Ibn Ishaq does not break it into smaller segments of any sort, and gives no explanatory comments on it. One must take it as it is, and decide what to make of it. Previous commentators have usually treated the text as a unity, though W. Montgomery Watt did propose that it must deal with two separate periods at least. If Watt and Serjeant are correct, then the "Constitution" is a composite document—i.e., to an original agreement additional clauses were added from time to time as occasion demanded. Note that the Constitution is not part of the Qur'an; it does not represent divine revelation, but an agreement or treaty negotiated among human beings.

### A. The Confederation Treaty

1. This is a writing from Muhammad the Prophet, God bless and honor him, between the Mu'minūn and Muslimun of Quraysh and Yathrib, and those who follow them and join with them and strive (jāhada) along with them.

2a. They are a single confederation (umma) set apart from the people.

2b. The Muhājirūn of Quraysh are in charge of the management of their affairs, paying jointly among themselves their blood-money, and they will ransom a prisoner of theirs in accordance with custom and by fair sharing among the Mu'minūn.

2c. Banū 'Awf are in charge of the management of their affairs, paying jointly among themselves their previous blood-monies, and each section (among them) will ransom a prisoner from it in accordance with custom and by fair sharing among the Mu'minūn.

2d-2j. (The stipulations of 2c apply also to the following clans: Banu Sā'ida, Banu'l-Harith, Banu Jusham, Banu'l-Najjār, Banu 'Amr ibn 'Awf, Banu'l-Nabī, Banu'l-Aws.)

3a. The Mu'minūn will not leave a foreigner (or perhaps "a debtor") among them without giving him what is established by custom for ransom or blood-money.

- 3b. A Mu'min will not make an alliance with the client (mawlā) of another Mu'min, intervening between him (and the latter).
- 4a. The pious and honorable Mu'minūn are against anyone of them who acts oppressively or commits an act of treachery or aggression or stirs dissension among the Mu'minūn.
- 4b. Their hands are against him as a body, even if he be the son of one of them.
5. A Mu'min will not slay a Mu'min in retaliation for a Kāfir, nor will he support a Kāfir against a Mu'min.
6. The security (dhimma) of God is one, the least of (the Mu'minūn) being competent to give protection on behalf of them all.
7. The Mu'minūn are clients (mawālī) of one another to the exclusion of (other) people.
8. Those Jews who follow us shall have aid and parity, not suffering injustice, nor mutual support being given against them.
9. The peace of the Mu'minūn is one. No Mu'min will make peace separately from (another) Mu'min in fighting in the path of God, unless it be on the basis of equity and justice between them.
10. Each raiding party which raids along with us shall be succeeded by another (on a regular basis).
11. One of the Mu'minūn will slay in retaliation for another's blood in the path of God.
12. The Mu'minūn who are pious and honorable follow the best and truest guidance.

#### Notes on Part A

This would be a pact of alliance concluded right after Muhammad's arrival in Yathrib (Medina), in 622. The contracting parties are the Muhajirun from Mecca on one side, and the Ansar of Yathrib on the other. The Jews of P. 8 are clearly a subordinate group. "This and document B . . . follow patterns established before Muhammad's time, and they emply the conventional legal phrasing already existing in Arabia."

Mu'min is normally translated "Believer"; Serjeant in a complex argument suggests that it means here "one who guarantees the security of another." In any case, it is the regular term for Muhammad's followers, those who are members of the umma, both in the Constitution and in the Qur'an. Muslim would mean "one who devotes himself exclusively to God."

Umma now means the whole community of Muslims; it is a religious term with some political overtones. Here, Serjeant suggests that it means "a political confederation," albeit one formed by a religious leader. We might follow the usage of the Qur'an, and define an umma as a body of men united by a common religious cult and belief.

A Muhājir is one who abandons his tribe and seeks protection with another by emigrating to it. Here it has the special meaning of those members of Quraysh who went with Muhammad to Medina; in so doing they broke with Quraysh and henceforth could only seek aid and protection from the new umma.

#### B. Supplement to the Confederation Treaty

1. No Polytheist (in Yathrib) will grant protection to property or person of Quraysh, nor will he intervene on their behalf against a Mu'min.

2a. Whosoever kills a Mu'min without just cause shall be slain in retaliation for him if proof is shown, unless the murdered man's next-of-kin consent to blood-money.

2b. The Mu'minūn will be altogether against him, and they are permitted no course of action save to rise against him.

3a. It is not lawful for any Mu'min who has affirmed what is on this sheet and who trusts in God and the Last Day to support or shelter an aggressor.

3b. Whosoever supports or shelters (such an aggressor) shall have upon him the curse of God and his wrath on the Day of Resurrection. No repentance and no ransom will be accepted from him.

4. In whatever matter you differ upon, refer it back to God, Mighty and Glorious, and to Muhammad, God bless and honor him.

#### Notes on Part B.

Quraysh in no. 1 means the Muhājirūn; hence the Polytheists of Yathrib are forbidden to mediate in a dispute between the new-comers and the Yathrib Mu'minūn (i.e., the Anṣār), because they are not part of the umma.

Document B would have been concluded shortly after A; its purpose was to tighten the internal solidarity of the Umma, and to exclude the influence of outsiders. No. 4 repeats a theme often stated in the Qur'an.

#### C. Treaty Defining the Status of the Jewish Tribes in the Confederation

1. The Jews will contribute taxes along with the Mu'minūn while they continue at war.

2a. The Jews of Banū<sup>C</sup>Awf are a confederation (umma) with the Mu'minūn. The Jews have their religion and the Muslimūn have theirs. (This is valid for) their clients and themselves, except for anyone who commits an act of aggression or treachery, for he slays only himself and the people of his house.

2b-2h. (The stipulations of 2a apply equally to the Jews of the following clans: Banū'l-Najjār; Banū'l-Hārith; Banu Sā<sup>C</sup>ida; Banū Jusham; Banū'l-Aws; Banū Tha<sup>C</sup>labah.)

3. Jafnah is a sept of Tha<sup>C</sup>labah like themselves.

4. The Banū'l-Shutaybah have the same as the Jews of Banū<sup>C</sup>Awf.

5. Verily good faith eliminates treachery.

allels  
2c.

Notes on Part C.

Document C would have been concluded more or less simultaneously with A and B—that is, it was drawn up during the first months after Muhammad's arrival in Medina. It represents the alliance between the Mu'minūn (i.e., Muhammad's followers both from Quraysh and Yathrib) and the Jewish clans of Yathrib/Medina. Note that umma here clearly means "voluntary confederation" and not "religious community." Note also that the Jewish clans are not made subordinate to the Muslims as such; rather, they are identified as allies of the various Arab clans of Medina. The Arab clans named here are the same as those mentioned in Document A; and they are sub-groups of the two tribes of Aws and Khazraj. The Muhājirūn of Quraysh of course have no Jewish allies.

The taxes mentioned in the first clause are the same as those paid by the Muslims; they are not a symbol of subjection.

D. Supplement to the Treaty Defining the Status of the Jewish Tribes.

1. The clients (mawālī) of Tha<sup>c</sup>labah are as themselves.
2. The protégés of Jews are as themselves.
3. No one shall dissociate himself from them save by permission of Muhammad, God bless and honor him.
4. One is not compelled to take vengeance for wounds. (I.e., it is better to accept monetary compensation; see Qur'an v, 45.)
5. Whoever commits murder does so against himself and the people of his house, unless (he has killed) one who commits aggression.
6. Verily God is over him who observes best this (undertaking).

Notes on Part D.

A codicil to Document C and contemporary with it. The group of affiliations established here and in C can only be modified by Muhammad himself, or at least with his permission. Nos. 4-5 simply reiterate the ancient Arabian code of retaliation for violence and murder.

Documents A-D are in effect a single agreement; all of them represent the political situation of Muhammad's first months in Medina. He had been voluntarily accepted as the head of a new confederation, but he had nothing like autocratic powers; and the pre-existing social groups in the oasis were not dissolved, but were rather confirmed as the constitutive elements of the new umma.

E. Reaffirmation of the Status of the Jews.

1. A man did not deal treacherously with his ally (ḥalīf).
2. Support is owed to the person wronged.
3. The Jews will contribute their taxes along with the Mu'minūn while they continue at war.
4. The Jews are responsible for their taxes, and the Muslimūn are responsible for theirs.

5. There is support between them against anyone who goes to war with the people of this document.
6. There is good will and sincerity of intention between them.
7. Verily good faith eliminates treachery.

Notes on Part E.

Serjeant believes that this segment of the "Constitution" dates from the period immediately following the great Muslim victory at Badr (624), but before Muhammad decided to expel the Jewish clan of the Banū Qaynuqā<sup>C</sup>. The Jews of Medina felt distinctly threatened by the rising power of Muhammad, and this agreement would have confirmed the terms previously stated in Documents A-D. The first two clauses are obscure, but seem to refer to specific events which had raised doubts about the relations between Jews and Muslims.

F. The Proclamation of Yathrib/Medina as a Sacred Enclave (Haram).

1. The Jawf of Yathrib is a sacred enclave (harām) for the people of this document.
2. The protected person (jār) is like oneself; (he is) neither to be harmed nor to commit treachery.
3. A woman shall not be given protection save by permission of her people (i.e., her male next-of-kin).
4. Whatever aggression or quarrel there may be between the people of this document, on account of which dissension is feared, refer it back to God, Great and Glorious, and to Muhammad the Apostle of God, God bless and honor him.
5. Verily God is over what is most feared and most honored in regard to this document.

Notes on Part F.

Serjeant believes that this segment is out of order, since it refers to a late event, the establishing of Yathrib as a sacred enclave, and hence similar in character (if not in prestige) to Mecca. Muslim tradition places this event after the victory of the Battle of the Ditch in 627. Clause 3 refers to the agreement in the Truce of Hudaibiya that any women of Quraysh who left Mecca to take refuge with the Muslims in Medina would be returned to their tribe; the date here would thus be 628.

G. The Treaty between the Arabs of Medina and the Jewish Clan of Qurayza to Defend the Oasis from the Quraysh of Mecca and Their Allies.

1. Protection will not be granted to Quraysh or to him who supports them.
2. There will be mutual aid between (the parties to this treaty) against anyone who treacherously attacks Yathrib.

3. When they are called upon to make and adopt a truce they will make and adopt that truce.
4. If they call for (a truce), then the Mu'minūn owe that to them.
5. Indeed, (among) those who are at war for religion, each group is responsible for its share of the sector lying in front of it.
6. The Jews of the Aws, (both) their clients (mawālī) and themselves, are on the same basis as the people of this document, with sincere compliance on the part of the people of this document.
7. Verily good faith eliminates treachery; he who breaks (this treaty) breaks it only against himself.
8. Verily God is over what is truest and most honored in regard to this document.

#### Notes on Part G.

This Serjeant believes, is the agreement made between the Muslims and the largest of the remaining Jewish clans, Banū Qurayza, shortly before the last Meccan attack on Medina in 627 (the famous Battle of the Ditch). According to Muslim tradition, the Qurayza were seduced into tearing up the agreement by a Jewish tribesman of Nadīr, which was in league with Quraysh to overthrow Muhammad. The consequences for Qurayza were of course disastrous. The first five clauses do not address the Jews specifically, however, but all the groups living in Medina.

#### H. Rules for the Sacred Enclave (Haram) of Medina.

1. This writing does not protect an aggressor or an evil-doer.
2. He who leaves is secure, and he who remains in Medina is secure.
3. God is a protector for him who shows good faith and piety, and Muhammad is the Apostle of God, God bless and honor him.

#### Notes to Part H.

These three clauses are presumably to be connected to Part F; they would date then to about 628. The first two clauses seem to mean this, on the analogy of the rules applying to Mecca: (1) a person who commits a crime in Medina will be punished for it; (2) a person who commits a crime elsewhere and then takes refuge in Medina is safe from punishment only so long as he remains there, or until he reaches his home.