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## Non-Muslim Integration Into the Early Islamic Caliphate Through the Use of Surrender Agreements

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**Non-Muslim Integration Into the Early Islamic Caliphate Through the Use of  
Surrender Agreements**

An Honors Thesis submitted in partial fulfillment of the  
requirements of Honors Studies in History

By

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Spring 2020

History

J. William Fulbright College of Arts and Sciences

**The University of Arkansas**

Acknowledgments:

For my family and the University of Arkansas Honors College

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## Introduction

Beginning with Muhammad's forceful consolidation of Arabia in 631 CE, the Rashidun and Umayyad Caliphates completed a series of conquests that would later become a hallmark of the early Islamic empire. Following the Prophet's death, the Rashidun Caliphate (632-661) engulfed the Levant in the north, North Africa from Egypt to Tunisia in the west, and the Iranian plateau in the east. Following the end of the Rashidun, the Umayyad Caliphate (661-750) also racked up extensive military victories. In the early eighth century, this empire expanded further and attained control of the Caucasus, Transoxiana, Sindh, the Maghreb, and the notable Iberian Peninsula.<sup>1</sup> With these additions, the Islamic state emerged as one of the largest empires in the pre-modern world, with a population of over thirty million people, overwhelmingly non-Muslim.<sup>2</sup> Now under Muslim control, these newly conquered non-Muslim communities brought with them an array of religious traditions including Judaism, Christianity, Zoroastrianism, Buddhism, Hinduism, and Animism.

During this period, the majority of people saw religion as the largest aspect of an individual's identity. For many individuals, their identity was derived primarily from their religion as it dictated an individual's morals, daily behavior, and understanding of the world. The importance of religion in relation to identity is demonstrated by how texts from the seventh and eighth century refer to settled populations within a city by their

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<sup>1</sup> Please see illustration two at the end of the paper for a map of the Umayyad empire in 750 CE at the end of their conquests. For a concise discussion of the early Islamic conquests, see Fred Donner, "The Islamic Conquests," in *A Companion to the History of the Middle East*, ed. Youssef Choueiri (Hoboken, NJ: Wiley-Blackwell, 2008), 28-51.

<sup>2</sup> Blankinship, Khalid Yahya. *The End of the jihād State: the Reign of Hishām Ibn 'Abd Al-Malik and the Collapse of the Umayyads*. Albany: State University of New York Press, 1994, pp. 37

religion. Rather than using social status or ethnicity in order to classify people, authors perceived population as consisting of different religious groups. As a result, in many texts, local people were referred to as the Jews or the Christians of a specific city or region and were governed based on these groups. While the distinction between non-Muslims will be covered in depth later, Christians and Jews were regularly mentioned because they are the People of the Book (*ahl al-kitab*) and therefore were afforded higher regard than other religious faiths.<sup>3</sup> With religion taking center stage, the state could not depend on their mere presence to ensure their legitimacy in the eyes of the people since the average person had few inherent ties to the state, particularly in regards to their identity.<sup>4</sup>

Based on this understanding, the challenge that the Islamic empire faced would have been considerable. As representatives of the newest religion in the Mediterranean in the seventh and eighth century, Muslim conquerors had to both subdue the local populations and get them to accept an administration that had a different understanding of the world. From its foundation, religion was interwoven into the empire's politics and culture. Two classic examples of this inherent link is Muhammad's rule and the Muslim community's choice of rulers or caliphs after the Prophet's death. After the Hijra to Medina in 622 CE, Muhammad became the head of an emerging state while maintaining his position as the leader of a religious community known as the Community of Believers or the *umma*.<sup>5</sup> As the final prophet of God, Muhammad established himself as both the

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<sup>3</sup> Friedmann, Yohanan. *Tolerance and Coercion in Islam: Interfaith Relations in the Muslim Tradition*. New York: Cambridge University Press, 2003, pp. 58-59.

<sup>4</sup> For a more detailed discussion of non-Muslims identity in relation to Muslims, please see Yohanan Friedmann's book *Tolerance and Coercion in Islam: Interfaith Relations in the Muslim Tradition*.

<sup>5</sup> Donner, Fred M. 2016. *The Early Islamic Conquests*, pp. 54-55

religious and political leader of the Muslim community. Following the death of the Prophet in 632 CE, and as the latter had not designated a successor, a dispute emerged within the Muslim community on who should be the caliph. One portion of the Muslim community thought that caliph needed to be a member of the Holy Family which meant having a direct familial relationship to the Prophet.<sup>6</sup> On the other hand, many believed that the new ruler only needed to be a qualified member of the Community of Believers, preferably a close associate of the Prophet from his tribe, the Quraysh of Mecca.<sup>7</sup> Among other reasons, this debate was significant because Muhammad's death occurred shortly after his consolidation of the Arabian tribes. From the perspective of some of these tribes, since they created pacts with Muhammad, they believed themselves released from their agreements after his death.<sup>8</sup> Thus, in order to keep this young empire together, it was extremely important that the caliph was legitimate in the eyes of his Muslim subjects both religiously and politically. As history shows, neither sides' option, Ali or Abu Bakr, were able to garner complete legitimacy with the Muslim community. This ultimately helped lead to the division of the Shia and Sunni sects that is seen in Islam today.<sup>9</sup>

As the young religious community and the Islamic state emerged hand in hand, inseparable from one another, the Muslim conquerors in the seventh and eighth centuries had to tackle the challenge of legitimizing their rule in the eyes of their predominantly non-Muslim subjects. According to Richard Bulliet, Muslims only consisted of 5-6% of

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<sup>6</sup> Jonathan Berkey, *The Formation of Islam: Religion and Society in the Near East, 600-1800*, Cambridge University Press, 2002, pp. 83-90.

<sup>7</sup> Crone, Patricia. 2004. *Medieval Islamic Political Thought*. Edinburgh University Press, pp. 17-18.

<sup>8</sup> Donner, Fred M. 2016. *The Early Islamic Conquests*, pp. 109-110.

<sup>9</sup> Please note that this is an extremely simplified explanation of what was a monumental turning point in Islamic history. For a more comprehensive discussion on the events following the Prophet's death, see Jonathan Berkey, *The Formation of Islam: Religion and Society in the Near East, 600-1800*.

the population in Islamic territories in 720 CE.<sup>10</sup> This made it particularly important for the Islamic empire to be seen as legitimate by their new citizens as there was always fear of revolt following a period of conquest. Faced with this framework, the Rashidun and the Umayyad Caliphates knew they needed to legitimize their rule using a variety of tactics both during and following their conquests. Ultimately, these tactics, which will also be referred to as legitimacy practices, facilitated the integration and assimilation of non-Muslims into the Islamic empire. In turn, this integration was important because it was a key feature in helping create the multifaceted, long lasting Muslim empire that scholars know today.

### **Historiography**

Although surrender agreements have existed for hundreds of years, there has been limited research dedicated solely to their study. By and large, scholars of Islamic history have delved into many different aspects of the early Islamic conquests, the Rashidun caliphate, and the Umayyad empire. Examples of the most investigated topics include the empire's military and political history as seen in Gerald R. Hawting's book *The First Dynasty of Islam: the Umayyad caliphate AD 661-750* and Fred Donner's *Early Islamic Conquests*. Additionally, historians have also investigated more concentrated topics such as non-Muslims, *siyar* (Islamic international law), relations between Muslims and dhimmis, and early conversion to Islam. However, due to the many aspects of early Islamic life, historians have not been able to give every topic the attention it requires. As a result, surrender agreements as a specific aspect of the history of non-Muslims along

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<sup>10</sup> Bulliet, Richard W. 2013. *Conversion to islam in the medieval period*. Cambridge: Harvard Univ Press, pp. 44.

with the formation of the concept of dhimmi and the treatment of non-Muslims in dar al-Islam (Abode of Islam) have not been paid enough attention. Thankfully, over the last fifty years, research has continued to evolve as scholars work to develop a more accurate and cohesive picture of this time period.

In recent years, this new picture has come more into focus thanks to the work of a number of scholars. In regards to surrender agreements, one of the most significant among these individuals is Milka Levy-Rubin and her book *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*. Unlike most authors before her, Levy-Rubin dedicated her entire work to these agreements. This decision allowed her to demonstrate a comprehensive understanding of their ancient lineage, their characteristics, their evolution, and the procedures they followed. One of the most valuable features of her book is how Levy-Rubin includes an array of primary source examples of surrender agreements.<sup>11</sup> Recorded by medieval historians, these examples are what authors and their informants said was written in the agreements based on what they saw or reports they heard. While these sources present their own problems, Levy-Rubin is able to make much of this documentation accessible to readers by including English translations of these agreements in her book and giving them historical context.<sup>12</sup> For all its positives, it is worthwhile to mention that Levy-Rubin was not able to cover every aspect of surrender agreements. The goal of this paper then is to build upon Levy-Rubin's work and add some fresh remarks specifically in regard to the impact of these surrender agreements on the integration of non-Muslims.

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<sup>11</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 50-56.

<sup>12</sup> *Ibid*, 171-172.

Despite the skill of modern historians, there are a number of inevitable issues that occur when studying seventh and eighth century surrender agreements. The first of these problems is the fact that the documentation that has survived is typically a record of the historian's informants who were not always direct witnesses of the events surrounding an agreement or the agreement itself. Furthermore, it is extremely rare that a copy of an agreement survived. This fact forced historians to write their records based on what their informants and oral tradition remembered. Moreover, modern scholars usually get their information about these agreements from medieval historians who were writing period summaries decades after they occurred. Unlike today, this practice was not uncommon as later historians frequently wrote the history of earlier periods in Islamic history. Well-known examples of historians like this are 'Aḥmad ibn Yaḥyā al-Balādhurī, Abū Ja'far Muḥammad ibn Jarīr al-Ṭabarī, and Abū'l-Ḥusayn Hilāl b. Muḥassin b. Ibrahīm al-Ṣābi'.<sup>13</sup>

Traditionally, these historians were not tremendously concerned about ensuring the accuracy of events they recorded. Moreover, like all historians, these individuals had a purpose for writing and their motivation effected how they portrayed events.<sup>14</sup> One example of this can be seen in Levy-Rubin's work when she briefly mentions the claims by A. Noth who believed that many reports, particularly those on the conquest of Egypt and Iraq, did not originate at the time of the conquest and instead were written later to fit

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<sup>13</sup> To clarify, these are only examples of historians who wrote summaries of earlier periods of Islamic history. It is not a list of those who have depicted Islamic history as religiously oppressive. Jonathan Berkey, *The Formation of Islam: Religion and Society in the Near East, 600 -1800*, Cambridge University Press, 2002, pp. 224-248.

<sup>14</sup> Lambton, Ann K. S. 2014. *State and Government in Medieval Islam*, pp. 204.

Umayyad political agendas.<sup>15</sup> While this claim was made by a single author, Levy-Rubin states that it is of course possible that specific reports were modified later to support personal interests. While there is no guarantee that Noth is correct, the manner in which Levy-Rubin responded to his claims showcase how frequently historians manipulated history.

Beyond the limited unreliability of these initial recorders, this documentation was also subject to numerous translations as it traveled from location to location. Over time, a single piece of evidence could be translated, interpreted, and copied countless times by different readers. Each time these changes occurred, there was a chance that the newly translated or copied document conveyed a slightly different message than the original. Even if a translator did his best work, there are some phrases and/or meanings in every language that cannot be translated verbatim. In addition, in historical documents, types of contractual settlements are also referred to as pacts and treaties. While there is no way of knowing for sure if these two terms refer to surrender agreements or if they maintain the same definition in each source, the context of the document can be used to help define its meaning.

Despite these recording issues, additional research on surrender agreements is still valuable. As with most documentation, even if scholars do not have a complete record of the original document, there is still much that can be learned from what did survive. By studying these agreement fragments, it is clear that the early Islamic empire was able to gain legitimacy by utilizing surrender agreements. Part of an ancient practice, these

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<sup>15</sup> Levy-Rubin, Milka. *Non-Muslims in the Early Islamic Empire : From Surrender to Coexistence*. New York: Cambridge University Press, 2011, pp. 36.

agreements created a social framework by defining and regulating the relationship between different religious traditions and Muslims. As a result, surrender agreements offer a window into the developing relations between Muslims and non-Muslims in dar al-Islam as the latter was expanding. In addition, they shed considerable light on the evolving conceptualization of non-Muslims' place in dar al-Islam from the point of view of Islamic legal tradition and political theory. By defining this relationship in a framework that was agreed on by all parties and one that preserved the basic rights of non-Muslims, these agreements were remarkably effective in facilitating the acceptance and incorporation of non-Muslims into Muslim society.<sup>16</sup> Using this background, it is clear that the original, actual surrender agreements, concluded upon the Muslim conquest, contributed to non-Muslims' integration into the early Islamic caliphate by defining non-Muslims' social, political, and legal status in relation to Muslims in dar al-Islam. Typically separated into two phases, both the early, original surrender agreements concluded at the time of the conquest, and the later version of surrender agreements that claimed to be "authentic", formed the basis of the legal, juristic articulation of the evolving status of dhimmis in the Abode of Islam as a part of the development of Islamic international law (*siyar*).<sup>17</sup>

### **Surrender Agreements**

Emerging in the early seventh century, Islam was established by the Prophet Muhammad based on revelations believed to be God's words and communicated to the

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<sup>16</sup> To be clear, in this setting, integration refers to the accepted inclusion of an individual into Islamic society.

<sup>17</sup> Shaybani, and Majid Khadduri. 1966. *Shaybani's Siyar: the Islamic law of nations*. Baltimore, Md: Johns Hopkins, pp. 142-157.

Prophet by Archangel Gabriel. After his visit with Gabriel, Muhammad introduced Islam as a universalist, Abrahamic religion in the city of Mecca.<sup>18</sup> As a major trading city in the Arabian peninsula, Muhammad's location, his place in the Quraysh tribe, his persona, and his marriage to Khadija, a wealthy business woman, all aided him in gathering his first followers.<sup>19</sup> In addition, while Islam was distinctly different from the idolatry that dominated Arabia, its similarities to Judaism and Christianity were familiar. As Judaism and Christianity had already established a long-term presence in the Arabian Peninsula, they were well-known there.<sup>20</sup> As a result, when Muhammad began preaching about a new faith, the people of Mecca would have had an understanding of Islam's basic principles based on the religious context that was available in the region.<sup>21</sup> Thus, while in Mecca, Muhammad was able to gain a following and establish Islam as the newest Abrahamic religion.

Although the people of Mecca knew of the Abrahamic religions, there were many individuals who were not accepting of Islam. This in addition to political strife forced Muhammad and his followers to move to Medina in 622 CE in a migration known as the Hijra. Originally invited to Medina as a mediator, it is here Muhammad would become

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<sup>18</sup> One of the most significant aspects of Islam is its universalist nature. As the wording suggests, this feature allowed any non-Muslims who desired to, to become Muslim. This ability was particularly important during the first few decades of Islam as it allowed Muhammad to appeal to and gain much needed followers. The ability to convert appealed to dissatisfied individuals from all walks of life by giving them the opportunity to break away from a society based on tribal relations and enter one where the strength of your faith dictates your social position.

<sup>19</sup> Donner, Fred M. 2016. *The Early Islamic Conquests*, pp. 50-53

<sup>20</sup> Kennedy, Hugh. *The Prophet and the Age of the Caliphate: The Islamic Near East from the Sixth Century to the Eleventh Century*, pp. 20.

<sup>21</sup> Beyond their proximity to the Byzantines, the people of Arabia were also knowledgeable about Judaism and Christianity due to the tribes of Arab Jews as well as various Christians living in the peninsula. A great example of this is three prominent tribes that were located in and around Medina during the time of Muhammad. These tribes include the Banu Nadir, the Banu Qaynuqa, and the Banu Qurayza. Cited from Muhammad: Legacy of a Prophet - Muhammad and Jews of Medina." PBS.

the political leader of the *umma* as Islam transformed from only a religion to a political entity bound by religious ties.<sup>22</sup> Linked to this change was the fact that Islam was becoming a religion of conquest as Muhammad and his followers engaged in military conflicts with the Meccans and Jewish tribes in Medina.<sup>23</sup> The Prophet also continued his practice of forming alliances with nomadic tribes using of pacts.<sup>24</sup> Eventually, through military and diplomatic means, Muhammad would unite the tribes of Arabia under his control, setting the stage for the early Islamic conquests.

Throughout these early years of Islam, the concept of jihad emerged based on the words and military actions of Muhammad as well as the words of the Qur'an. At this time, jihad referred to the ability for Muslims to wage justifiable war against an enemy in defense of Islam.<sup>25</sup> Seen as a collective obligation rather than an individual one, the aim of jihad was to defend, and at times expand, the Islamic state. Importantly, jihad was not allowed to be used to convert non-Muslims to Islam if they surrendered peacefully to the Muslim conquerors and thus earned dhimmi status. For Muslims, this obligation contributed to their understanding of how the world was divided. On one side, there is the Abode of Islam or dar al-Islam which is the land under the control of an Islamic state and

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<sup>22</sup> Donner, Fred M. 2016. *The Early Islamic Conquests*, pp. 54-55

<sup>23</sup> Muhammad: Legacy of a Prophet - Muhammad and Jews of Medina." PBS.

<sup>24</sup> Though Muhammad used other diplomatic methods including gift giving and promises of power, his practice of using pacts was faithfully recorded in the Qur'an. Although different from surrender agreements, these pacts were used to bring tribes under Muhammad's control swiftly and through minimal bloodshed. In addition, there were stipulations that both sides of the pact had to uphold in order for the pact to remain viable. As a result, it is possible that these pacts provided a historical background for the acceptance of surrender agreements by the early Muslim conquerors in addition to that provide by the Romans and Sasanians. In addition, Fred Donner's book *The Early Islamic Conquests* refers to these pacts on pages 108-109.

<sup>25</sup> There are two other definition of jihad that Muslims use including when they refer to a believer's internal struggle to live out the Muslim faith. However, for this paper, jihad's definition will be that of an armed conflict against an enemy. For a discussion on the different definitions of jihad and their development, see David Cook's book *Understanding Jihad*.

it is governed according to Sharia (Islamic law). In contrast, there is the Abode of War or dar al-harb which is the locations not governed by Sharia law and thus filled with unbelievers who are perceived to be potential enemies.<sup>26</sup> In theory then, the ultimate goal of jihad is to continue the struggle against dar al-harb until the world is dar al-Islam, leaving no potential threats to the state.

In addition to this ideal, another feature of jihad was that it was governed by a set of rules including ones that prohibited harming those who were not engaged in combat.<sup>27</sup> Moreover, the Qur'an addressed when Muslims could perform jihad and when they could not. In verse 4:90, the text states, "Therefore if they withdraw from you but fight you not, and (instead) send you (Guarantees of) peace, then Allah Hath opened no way for you (to war against them)."<sup>28</sup> Based on this record, it is clear that the Qur'an outlines rules for those that can be waged war on. In addition, it is interesting that those who wish to make peace are protected by the Qur'an since this *sura* would prevent pious Muslims from entering into armed conflict with individuals who desired peace. However, since the text does not elaborate further, there is not enough evidence, solely on the basis of this *sura*, to determine what this "guarantee of peace" is referring to or its significance.

Following Muhammad's consolidation of Arabia in the seventh century, the Islamic state launched into a period of rapid expansion. During this period, Muslim conquerors participated in two types of conquest: *sulkhan* and *anwatan*.<sup>29</sup> The first refers

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<sup>26</sup> Crone, Patricia. 2004. *Medieval Islamic Political Thought*. Edinburgh University Press, pp. 359-362.

<sup>27</sup> Blankinship, Khalid Yahya. "Parity of Muslim and Western Concepts of Just War." *The Muslim World* 101, no. 3 (2011): 412-26, pp. 416.

<sup>28</sup> Nikayin, Fazlollah. 2017. *Quran*. Cork: BookBaby.

<sup>29</sup> Lambton, Ann K. S. 2014. *State and Government in Medieval Islam*, pp. 204.

to conquest through a binding agreement or *sulh* while the second is conquest by force.<sup>30</sup> The difference between these two forms of conquest was significant because they had a lasting role in how non-Muslims in these cities were treated both legally and socially. For cities taken using *anwatan*, the Muslim conquerors were permitted to do as they pleased with the conquered populations. This was largely because there was not *sulh* that created a legal agreement between the two parties.

On the other hand, for cities conquered using *sulkhān*, a legally binding agreement was in place that defined the relation between Muslims and non-Muslims.<sup>31</sup> While this will be discussed more in depth later, an individual's religious tradition and their relation with the conquerors determined how this agreement would affect them. Thus, an agreement is going to impact an individual who is considered *dhimmi* and Christian differently than an individual who is not *dhimmi* and Manichaean. In addition, there were different types of contractual agreements beyond surrender agreements that non-Muslims entered into. Not considered a surrender agreement, one good example of a different type of agreement is the one made with the Nubians in the mid-seventh century.

According to Al-Tabari's history, the governor of Egypt, 'Abdallah b. Sa'd b. Abi Sarh, established a peace treaty with the Nubians following a huge military defeat due to the Nubian's superior bowmanship.<sup>32</sup> For the Nubians, this treaty required that they offer the Muslims a gift of a number of people to be used as a labor force. In exchange, every

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<sup>30</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire : From Surrender to Coexistence*. New York: Cambridge University Press, 2011, pp. 36.

<sup>31</sup> *Ibid*, 63.

<sup>32</sup> Ṭabarī, and G. H. A. Juynboll. *The History of Al-Tabari Vol. 13 : The Conquest of Iraq, Southwestern Persia, and Egypt: The Middle Years of 'Umar's Caliphate A.D. 636-642/A.H.* pp. 175. Still present today, Nubians are an ethno-linguistic group of people who are indigenous to southern Egypt.

year, the Muslims would give them specific foodstuffs and garments. Based on al-Tabari's record, 'Abdallah b. Sa'd b. Abi Sarh and the governors and commanders who lived after him honored this agreement, largely out of concern for the well-being of the Muslims.<sup>33</sup> From this example, it is clear that there were various types of *sulh* (including surrender agreements) that varied based on the local circumstances. In addition, this example demonstrates the importance of these agreements for both the conquered and conquerors as it sets in place a binding legal agreement that is honored by tradition and Islamic law.<sup>34</sup>

During their conquests, Muslim military leaders utilized a number of instruments of legitimization as they worked their way across the known world. Among these tactics, one of the most established was the use of surrender agreements. In her book *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, Milka Levy-Rubin offers a quality account of what these agreements entailed. According to Levy-Rubin, at their core, surrender agreements were a promise of security given by Muslim invaders in exchange for payment, typically the poll-tax (*jizya*) or some other form of tribute, by the conquered population.<sup>35</sup> Besides its financial purpose, the payment of *jizya* by *dhimmi* served as a physical representation and recognition of the Muslims' rule, as well as a way to "humble" non-Muslims, as prescribed in the Qur'an (9:29).<sup>36</sup> The security given in exchange for this payment consisted of the civilians' lives, their property, and their right to continue living according to their ancestral laws without Muslim interference.<sup>37</sup> As the

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<sup>33</sup> Ibid, 176.

<sup>34</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire : From Surrender to Coexistence*. New York: Cambridge University Press, 2011, pp. 63.

<sup>35</sup> Ibid, 24.

<sup>36</sup> Ibid, 43.

<sup>37</sup> Donner, Fred M. 2016. *The Early Islamic Conquests*, pp. 246.

foundation of all surrender agreements, this exchange was written into most agreements from the conquests along with details regarding the payment of *jizya* which was usually paid using coin, material goods, or services to Muslims. Examples of possible payment methods included horses, hides, armor, military assistance, or acting as a guide for Muslims. Due to their simple nature and few obligations, these surrender agreements did not impose burdensome restrictions on the lives of non-Muslims and left them in relative peace to continue their lives undisturbed.

In addition to their simplicity, there was also a specific procedure that Muslim conquerors followed when establishing an agreement. Upon approaching a new settlement, Muslim military leaders would send a member of their force with an offer of peace.<sup>38</sup> Otherwise faced with war, representatives of the population would parley with the general of the Islamic force and agree to surrender if certain conditions were fulfilled. Negotiations between the two would take place and the document had to be ratified by the sovereign body of each side. After an agreement was reached, the documents would be signed, witnessed, and sealed. Often written in two languages, a copy of the document was given to both parties for future reference.<sup>39</sup> Normally, a surrender agreement lasted for a set amount of time or until the death of one of the representatives or their sovereign leader after which the pact needed to be renewed.

The practice of both parties getting a copy is significant because it allowed surrendered populations to hold Muslims legally accountable if the terms of the agreement were broken. Interestingly, many of the records scholars have of early

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<sup>38</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp 12.

<sup>39</sup> *Ibid*, 10-11.

surrender agreements come from this type of use as historians mention town leaders referring to their copy during a local dispute or renewal. One great example of this is how in the late seventh century, the people of the city of Tufliş brought their copy of their agreement to al-Jarrah b. ‘Abdallah al-Hakami who took over governorship of the region of Khurasan following the accession of Umar II.<sup>40</sup> Originally signed by Habib b. Maslama, the new governor renewed Tufliş’ agreement using the local population’s original copy.<sup>41</sup>

In regards to non-Muslims, it is important to understand that the Islamic caliphate defined and categorized non-Muslims for legal and administrative purposes. Typically, an individual was labelled both by their religious belief and their relationship related to Muslims in terms of Islamic law. For the latter, there were usually three groups that a person could fall into: *dhimmis* (*ahl al-dhimma*), “people of the armistice” (*ahl al-hudna*), or “people who received guarantee of safety” (*ahl al-aman*). Known as protected people, *dhimmis* were non-Muslims who agreed to live under Islamic rule and received permanent protection from Muslims. The people of the armistice were those who were not under Islamic rule, were not living in Islamic lands, and their only requirement was to not war against the Muslims. Finally, the people who receive a guarantee of safety are those who stay in Muslim territory temporarily and do not pay *jizya* such as merchants, envoys, and traders.<sup>42</sup>

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<sup>40</sup> al-Baladhuri, Ahmad b. Yahya, *Ansab al-ashraf*, ed. M. Schloessinger, Jerusalem 1971, pp. 201-202

<sup>41</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire : From Surrender to Coexistence*, pp. 39-40

<sup>42</sup> Friedmann, Yohanan. *Tolerance and Coercion in Islam: Interfaith Relations in the Muslim Tradition*. New York: Cambridge University Press, 2003, pp. 54-56.

In addition, a person is also categorized by their religious belief. Generally called infidels, common religious groups included Jews, Christians, Zoroastrians, polytheists, and heretics who were typically associated with the Manichaeans and the Samaritans. These labels can overlap since, for example, a person can be a Jew and a dhimmi.<sup>43</sup> Overall, these categories are extremely significant because the Islamic empire used them in their legal and administrative institutions. Since surrender agreements were an integral part of these institutions, these categories were also used in agreement documents in relations to a specific town or region's non-Muslims. For non-Muslims, these groups were how the empire determined an individual's rights and obligations since the laws were recorded based on these categories. In addition, an individual's classification dictated their relationship with Muslims and other religious groups.

For example, in the book *Tolerance and Coercion in Islam*, the text states, "Umar b. al-Khattab did not take *jizya* from the Zoroastrians of Hajar until he was told by Abd al-Rahman b. Awf that the Prophet has levied it from the Zoroastrians of Hajar and enjoined the Muslims to treat them as they would treat People of the Book<sup>44</sup>."<sup>45</sup> This excerpt demonstrates that individuals were recognized in Islamic law and administration based on two labels: their religion and their relationship related to Muslims. Knowing these categories was extremely important because, as one can see, different religious groups were granted different rights and held to different obligations. In addition, this

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<sup>43</sup> Ibid, 55-58.

<sup>44</sup> Typically referred to as a homogenous group, the People of the Book were Jews and Christians. For a more detailed discussion on People of the Book and their legal status, please see Yohanan Friedmann's *Tolerance and Coercion in Islam: Interfaith Relations in the Muslim Tradition*.

<sup>45</sup> Friedmann, Yohanan. *Tolerance and Coercion in Islam: Interfaith Relations in the Muslim Tradition*. New York, pp. 73-74.

example shows that Muslims, in this case Umar b. al-Khattab, was careful to honor the recorded rights' of these groups due to their legal and administrative significance.

According to Islamic law, surrender agreements were considered to be legally binding documents and were treated as such by the Muslim authorities.<sup>46</sup> A good demonstration of this is a dispute recorded by Ibn al-Mu'alla who reported that he read a document written by the *qadi* of Damascus, Yahya b. Hamza.<sup>47</sup> In this document, the *qadi* reports how the Christians of the city came to him, claiming the Muslims had taken over their churches and asked him to fulfill the agreement made with them by Khalid b. al-Walid. After reviewing the agreement they produced and the *jizya*, the *qadi* sided with the Christians, ruling the Muslims needed to return the property or compensate them adequately.<sup>48</sup> This record and those like it are enlightening because they demonstrate how these agreements functioned first and foremost as a protection of dhimmi's rights including personal property and religious freedom. In fact, according to Levy-Rubin, from the late eighth century onwards, "...these agreements often seemed an encroachment upon the rights of the Muslims. Nevertheless, they were respected by the Muslim authorities."<sup>49</sup> Interestingly, this idea is in direct contrast to how most traditional

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<sup>46</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 40.

<sup>47</sup> "Ibn 'Asakir, *Ta'rikh madinat dimashq*, vol. VI, pp. 19-21" as cited in Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 40.

<sup>48</sup> The *jizya* was a type of tax. In the Islamic empire, what type of tax a town or tribe paid depended on the identification of that group. According to Islamic law, sedentary Muslim populations were required to pay *zakat* or alms. In reality, though, the payment of *zakat* was much less regular than payment of *jizya* by non-Muslims. In addition, *zakat* was only levied on Muslims who can afford it. Since most Muslims did not have much money, many were not required to pay it. In contrast, the *jizya* (tax or tribute) was levied against sedentary populations of non-Muslims, most commonly Jews or Christians, who chose to retain their faith. The collection of the *jizya* was highly regulated compared to the *zakat* because the Umayyad empire depended on this tax to finance its administration. Cited in Donner, Fred M. 2016. *The Early Islamic Conquests*, pp. 252-253.

<sup>49</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 40

narratives have depicted the Islamic empire. In the minds of many, the Islamic empire was characterized by religious oppression and the stifling of local populations. As these surrender agreements help demonstrate, this narrative is not accurate as local populations were entitled to religious freedom and the right to practice even from the earliest days of the empire.

In regards to surrender agreements, it is important to note that there were many different variations of these agreements. While there was a uniform structure to them, their purpose for the empire was multifaceted and needed to fit the circumstances of each population.<sup>50</sup> By negotiating with the conquered, these agreement secured a swift victory for the empire, established the conquerors' relationship with the local population, built a daily social framework, and legitimized their rule. On the other hand, these agreements helped conquered populations ensure the continuation of their daily lives and their livelihoods. Depending on the background of that region or town, this continuation took slightly different forms. Thus, in order to create an agreement that was acceptable for both sides, the content of these documents needed to be malleable depending on the population's needs.

The basic pattern of surrender agreements in the age of the Islamic conquests was set as early as in the time of the Prophet Muhammad, when the Muslims, under the leadership of the Prophet himself, were consolidating their control over the Arabian Peninsula. Reported by al-Baladhuri, a good example of this is the surrender agreement made in 631 CE by the city of Najran.<sup>51</sup> Located in southwest Arabia, Najran consisted of

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<sup>50</sup> Ibid, 49

<sup>51</sup> Kitab Futuh al-Buldan, ed. M. J. de Goeje, Leiden 1866 ; trans. P. K. Hitti as *The Origins of the Islamic State*, New York 1916, pp. 98-105.

Christians and Jews who made an agreement with representatives of Muhammad. Allegedly orchestrated by two monks, this document is similar in nature to other surrender agreements that would come later on during the conquest. This similarity is primarily due to the fact that this agreement was simple, outlining the exchange of a yearly tax and acceptance of Muslim rule in exchange for the promise of protection. For the Jews and Christians of Najran, this deal was significant because it guaranteed that they would be left alone if they fulfilled a few very specific conditions.<sup>52</sup>

The most in depth portion of the document explains how Najran would pay the *jizya*. In this case, this city of Jews and Christians had to provide two thousand robes annually to the Muslims and provide visiting Muslims lodging. In addition, in the event of war with al-Yaman, the city was required to loan the Muslims thirty coats of mail along with thirty horses and camels each.<sup>53</sup> It is interesting that these later materials were given as a loan, not a tribute, and that Muhammad guaranteed that the Muslims would return them. Not common in later agreements, the presence of loaning in this document supports that idea that this agreement was created in the early days of the Islamic state, particularly since Muhammad did not have the equipment he needed to outfit his soldiers. Overall, this agreement is a good example of how Jews and Christians were incorporated into the Islamic state using surrender agreements from the empire's very beginning.

During the conquests, the form in which *jizya* was paid by non-Muslims was flexible. This adaptability allowed a conquered population to negotiate with their Muslim conquerors in order to find a type of payment that they could provide. Oftentimes, this

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<sup>52</sup> Ibid, 100-101.

<sup>53</sup> Ibid, 98.

modified payment was material goods or services that was equal in value to a currency amount.<sup>54</sup> A good example of this flexibility was in the mid-seventh century when Ibn Amir, governor of Basra, accepted male and female slaves in place of having residents pay the poll tax.<sup>55</sup> This stipulation was written into the agreements of a few towns across the Oxus in consideration of the fact that their resources and property were in material goods and not in physical currency.

Interestingly, adjustments made to *jizya* was not only due to necessity or an unavoidable need like it most likely was in Basra. At times, it was prompted by a custom found in a specific town or a shared desire among townspeople. One clear example of this was the surrender agreement of Barkah (Barca) in east Libya.<sup>56</sup> Created in the 640s, the military leader ‘Amr ibn-al-‘Asi agreed to allow the local Berbers to sell some of their children in order to pay the tribute. According to the surviving record, this stipulation was not imposed on them and, in the past, the Berbers had send the children they wanted to sell to the governor of Egypt without any urging.<sup>57</sup> Overall, this was a local custom that the Berbers desired to continue and, rather than demand payment in dinars, the Muslim conquerors permitted it.

In addition to Barkah, another example of a desired, optional change can be found in the surrender agreement of the city of Darband (northeast Iran). In their agreement, the

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<sup>54</sup> Ibid. In the agreement with the city of Najran, the people are required to create two thousand robes annually to pay their *jizya*. Furthermore, this document makes it a point to record how much each robe equal in dinars (currency). The agreement also mentions that a change in the price of the robes would be taken into account when calculating the annual *jizya*.

<sup>55</sup> ‘Athamina, Khalil. 1998. "Non-Arab Regiments and Private Militias during the Umayyād Period." *Arabica* 45 (4), pp. 359.

<sup>56</sup> *Kitab Futuh al-Buldan*, ed. M. J. de Goeje, Leiden 1866 ; trans. P. K. Hitti as *The Origins of the Islamic State*, New York 1916, pp. 352-354.

<sup>57</sup> Ibid, 352.

local population asked that their tribute be in military assistance rather than the payment of the *jizya* (the poll-tax). This is because, in the townspeople's perspective, paying this tax was considered humiliating and military aid was vastly preferable.<sup>58</sup> Though not a necessary change, the Muslims acceded to this request and wrote it into their legally binding agreement with Darband.

While the adaptability of these agreements might seem insignificant, this feature was extremely important to the success of surrender agreements. Being able to personalize these documents meant that the Muslim conquerors could modify an agreement until it was acceptable for the local, non-Muslim population.<sup>59</sup> This in turn ensured that the conquerors could achieve a relatively short victory over a large area that included numerous towns. Without the ability to adapt to cultural characteristics and considerations, it is unlikely that non-Muslims would have accepted these agreements to the degree that they did. In addition, the ability to modify these documents from location to location inevitably created a variety of diverse agreements across the Middle East.<sup>60</sup> Although this will be discussed in depth later, this diversity would create frustration and upset among the Muslim population during the ninth century and would eventually be used as a reason to standardize these agreements into one. To provide an cohesive picture, at the end of this paper, illustration one conveys the locations of surrender agreements (or treaties) where the texts of these documents have been cited in written record. As the image shows, there is evidence of agreements spanning from Egypt to Iran.

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<sup>58</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 49-50

<sup>59</sup> Lambton, Ann K. S. 2014. *State and Government in Medieval Islam*, pp. 204.

<sup>60</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 26.

As time went on, the basic pattern of surrender agreements would persist.

Appearing well into the late stages of the Islamic conquests, this exchange of protection and relative independence for the payment of *jizya* can be seen in the conquest of Iberia in the 710s. Translated by Olivia R. Constable, the Treaty of Tudmir is one specific example of the persistence of this basic structure.<sup>61</sup> Dated to 713 CE, this document was established between ‘Abd al-Aziz and Theodemir who was the local ruler of Murcia. Though brokered by Theodemir of Murcia, the agreement states that this document also applied to seven other towns in the area: Orihuela, Valentilla, Alicante, Mula, Bigastro, Ello, and Lorca. Relatively short, this translated document focuses extensively on outlining the services that the conquered would and would not have to complete. Specific stipulations that are mentioned include not removing Theodemir from power, not burning the town’s churches, and not coercing non-Muslims in matters of religion. In exchange, the conquered were required to not shelter fugitives, not encourage any protected people to fear the Muslims, and to abide by the agreement. Besides these aspects, the document also stated that each of Theodemir’s men had to pay one dinar per year along with four measures of wheat, barley, fruit juice, vinegar, honey, and olive oil.<sup>62</sup>

Based on this translation, the Treaty of Tudmir is a typical surrender agreement. In both content and structure, this document appears to abide by the basic pattern and traditions established by the Romans centuries prior. In particular, it features protection and the promise to leave non-Muslims alone in exchange for the payment of taxes in the form of dinars and material goods. This tax was the subject that was explained in the

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<sup>61</sup> Constable, Olivia Remie, and Damian Zurro. 2012. *Medieval Iberia: readings from Christian, Muslim, and Jewish sources*. Philadelphia: University of Pennsylvania Press, pp. 37-38.

<sup>62</sup> Ibid.

most detail and thus was most likely a point of serious negotiation between the two sides. In this context, this intense debate makes sense because, in the eyes of the conquered, the amount and type of tax would need to be something they could reasonably fulfill every year. In addition, since this agreement was made on the behalf of eight towns, this tradition also assisted the Muslims by granting them a quick conquest over a large area. One interesting aspect of this agreement was the inclusion of the stipulation that the conquered could not encourage any protected people to fear the Muslims.<sup>63</sup> The addition of this stipulation signals that the Muslims were interested and invested in preventing strife in these new territories. Furthermore, by asking others not to fear them, this agreement supports the idea that the Islamic empire was using these documents to integrate non-Muslims into dar al-Islam.

While all these examples were relatively straightforward, there were more complex surrender agreements, such as the multi-phase surrender in Alexandria in the 640s. In order to understand the intricacy of this agreement, one can refer to *The Chronicle of John (c. 690) Coptic Bishop of Nikiu* in which John of Nikiu (a Coptic Bishop of Nikiu in the Nile Delta) recorded what he knew of the agreements of Alexandria. According to this source, in the early seventh century, the Melkite patriarch Cyrus of Alexandria travelled to Babylon (at Modern Old Cairo) which was serving as the headquarters of the Muslim army in Egypt. There, he negotiated a treaty with the Muslims in 641 CE on behalf of Egypt.<sup>64</sup> Unfortunately for Cyrus, not everyone in Alexandria was happy that he made a legally binding agreement on their behalf. The

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<sup>63</sup> Ibid, 37.

<sup>64</sup> Charles, R. H., trans., *The Chronicle of John (c. 690) Coptic Bishop of Nikiu*, London 1916, pp. 192-194.

Diophysites of Alexandria were particularly upset with this occurrence. On the other hand, the Copts of the city welcomed it.<sup>65</sup> This anger on the part of the Diophysites was why Cyrus was almost stoned to death after arriving back in Alexandria. Eventually, though, the city surrendered to the Muslims' rule. However, a problem arose when the Byzantine emperor sent a general Manuil (Manuwil) who re-conquered the city for Byzantium.<sup>66</sup> Sometime in the mid-640s, however, Alexandria surrendered again to the Muslims and agreed to pay *jizya* in exchange for *dhimmi* status for the non-Muslims in the city.

In regards to the actual terms of the agreement, the second treaty outlined a fixed amount of tribute, the removal of Roman (Byzantine) troops from Alexandria, and the release of 150 soldiers and fifty civilians.<sup>67</sup> In exchange, the Muslims agreed not to seize Christian churches, allowed Jews to stay in Alexandria, and to not intervene in the concerns of Christians. The record goes on to report that Cyrus was almost stoned to death by the people of Alexandria after the Muslims came for their tribute. According to the author, since the Alexandrians did not know about the agreement and could not fight off the Muslims, they planned to punish Cyrus instead. Fortunately, Cyrus was able to persuade them to his side and the Alexandrians felt ashamed of what they were going to do. In addition, after the initial treaty was made, Cyrus was tasked by his fellow Egyptians to negotiate with the Muslims once again. Driven out of their homes by fear, the Egyptians wanted the Muslims to promise to allow them to return to their cities and

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<sup>65</sup> In the eyes of the Byzantine empire (who had been in control of Egypt), the Diophysites were considered Orthodox Christians. On the other hand, the Copts were Monophysites and therefore considered heretics by the Byzantine government in Constantinople.

<sup>66</sup> Kitab Futuh al-Buldan, ed. M. J. de Goeje, Leiden 1866 ; trans. P. K. Hitti as *The Origins of the Islamic State*, New York 1916, pp. 347-348.

<sup>67</sup> Charles, R. H., trans., *The Chronicle of John (c. 690) Coptic Bishop of Nikiu*, London 1916, pp. 192-194.

become Muslim subjects. Once Cyrus accomplished this, the Muslims allegedly had control of all of Egypt.<sup>68</sup>

In this document, there is evidence that agreements were flexible in order to fit the demands of each city and region. The best instance of this is when the Egyptians asked for the conquerors' promise that they could move back into their cities. This was significant because the Muslim conquerors agreed to give them back their land and to grant them the right to private and public property after they had abandon their city. If the land was not given back to the locals, this property could have been used for Muslims settlers or taken as booty. Thus, this concession on the part of the Muslims demonstrates their desire to integrate non-Muslims into their society by ensuring non-Muslims were present and relatively content with their daily circumstances.

In addition, the record does not mention anything about the civilians or the Roman military bucking the Muslims' authority following the treaty even though Cyrus secured this treaty without their consent. After being on the brink of war, this easy acceptance of a foreign power after learning about the treaty lends support to the belief that these agreements were grounded in Roman tradition.<sup>69</sup> In addition, it is interesting that Cyrus was serving as a representative and negotiator for all the religious communities residing in Alexandra and not just the Melikites to whom he belonged. While this follows the established procedure of these agreements, other religious communities, like the Jews and the Monophysites, were held legally responsible for the terms that Cyrus agreed on, no matter if these obligations were sensible or not. The fact

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<sup>68</sup> Ibid, 194.

<sup>69</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 164-165.

that other groups were held to the obligations that a member of another religious community agreed on, could create issues and contributed to why Cyrus was going to be stoned to death.<sup>70</sup> During this period, the threat of punishment initiated by public opinion acted as a safeguard against unfair or unsupported agreements. In Cyrus' case, the Melkite of Alexandria did not agree with their patriarch about surrendering to the Muslims and thus, they attempted to impose public punishment on Cyrus.

For the Islamic empire, surrender agreements played a central role in building legitimacy and facilitating non-Muslim integration. By creating a written agreement in which both the conquerors and conquered negotiated terms, Muslim rulers were able to gain legitimacy right off the bat as populations willingly entered into these agreements in exchange for protection. In addition, these surrender agreements set the social status, rights, and legal obligations of non-Muslims in their new Muslim communities. These clearly defined parameters helped non-Muslims integrate into a Muslim dominated society.

Moreover, these agreements provided a sense of continuation for non-Muslims who were facing a rapidly growing empire that was distinctly different from those that had come before. From the beginning, most of the people in the caliphate were non-Muslims who, under Islamic rule, were dominated by a religious, political, and military superior Muslim minority as Muslims gradually moved into previously non-Muslim cities. By the mid tenth century, Muslims would constitute the majority of the population in dar al-Islam.<sup>71</sup> However, this was not the case during the first few centuries of Islamic

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<sup>70</sup> Charles, R. H., trans., *The Chronicle of John (c. 690) Coptic Bishop of Nikiu*, London 1916, pp. 192-194

<sup>71</sup> According to Richard Bulliet by the tenth century, Muslims consisted of 50% of the population in Islamic territories. This is interesting when one realize that ca. 720 CE, Muslims only made up about 5% of the

rule. For many, the practice of surrender agreements was reassuring since this type of agreement had been present in the Mediterranean since the Classical era.

### **The Evolution of Surrender Agreements**

According to Levy-Rubin's work, evidence of surrender agreements can be found on the Arabian Peninsula since the time of Muhammad.<sup>72</sup> However, their basic principles are rooted in an ancient diplomatic tradition originating around the middle of the second millennium BCE in the ancient Near East.<sup>73</sup> The tradition of surrender agreements along with their corresponding procedure was passed down over the centuries until it was firmly established in the public's memory and history. In fact, according to Levy-Rubin, it was highly likely that the adoption of surrender agreements as a mechanism for surrender and a lasting social and legal institution was initiated by the conquered populations.<sup>74</sup> This initiation was due to the fact that these populations had functioned according to agreements like these for centuries under the Byzantine empire. As a result, they desired to continue the tradition of surrender agreements because of their historical context and their ability to let locals carry on with their lives relatively undisturbed. This background facilitated the acceptance of this ancient practice by the Muslims conquerors shortly following the beginning of the conquests.<sup>75</sup>

There is ample evidence of Byzantine treaties in the historical record. One useful example of this is a treaty signed in 505 AD after several years of war. According to the

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population. Cited in Bulliet, Richard W. 2013. *Conversion to islam in the medieval period*. Cambridge: Harvard Univ Press, pp. 44.

<sup>72</sup> Levy -Rubin, Milka. Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence, pp. 18.

<sup>73</sup> Ibid, 10-13.

<sup>74</sup> Ibid, 26.

<sup>75</sup> Ibid.

chronicle of Marcellinus Comes, a treaty was established through the work of two traveling envoys, Celer and Armonius.<sup>76</sup> This agreement brought an end to the war by deciding that the Sasanians would give the city of Amida to the Byzantines in exchange for one thousand pounds of gold. By studying these treaties, it is evident that this practice was ongoing based on the similarities in terminology and structure between the original Roman agreements and these Byzantine treaties.<sup>77</sup>

Although rooted in Roman tradition, surrender agreements in the Islamic empire underwent two distinct phases. The first phase was the time period during which surrender agreements were in their original, relatively untouched state. During this phase, the Muslim conquerors were taking control of lands such as Syria, Palestine, Egypt, and Iran, and were concluding agreements with the conquered non-Muslims who accepted Muslim protection and became *dhimmis*. These genuine surrender agreements were usually detailed but also generally minimalistic with respect to the restrictions they imposed on the conquered non-Muslims.<sup>78</sup> As seen in the Treaty of Tudmir, the detail in these agreements were centered around the annual taxes that the conquered non-Muslims had to pay.<sup>79</sup> Otherwise, these surrender agreements do not impose burdensome restrictions on the lives of non-Muslims, generally leaving them to live in peace. These initial documents were constructed in this manner because the Muslim conquerors were few in numbers and thus, a tiny minority in the newly conquered lands.<sup>80</sup> As a result, they

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<sup>76</sup> Marcellinus, *The Chronicle of Marcellinus*, text, trans., and comm. B. Croke, *Byzantina Australiensia* 7 (Australian Association for Byzantine Studies), Sydney 1995, p. 34.

<sup>77</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 13

<sup>78</sup> *Ibid*, pp. 8-20.

<sup>79</sup> Constable, Olivia Remie, and Damian Zurro. 2012. *Medieval Iberia: readings from Christian, Muslim, and Jewish sources*. Philadelphia: University of Pennsylvania Press, pp. 37-38.

<sup>80</sup> Donner, Fred M. 2016. *The Early Islamic Conquests*, pp. 248-250.

were content being recognized as the Muslim elite by the conquered populations, living well, and collecting taxes from non-Muslims.

In addition to Muslims' low numbers, they were also willing to accept such simple agreements because the vast majority of Muslims living in these new territories did not actually live together with non-Muslims. Instead, in the early decades following the initial conquest of an area, Muslims lived in *amsar* or garrison towns which were built separate from established non-Muslims towns.<sup>81</sup> In the minds of Muslims, these *amsar* were necessary since they were superior to the conquered and thus they should not "mix" with them.<sup>82</sup> Gradually, however, the two sides began to intermingle as Muslim conquerors and their progeny would stop serving as soldiers and start taking up trades. In addition, Muslims began intermarrying with non-Muslim women or *mawali* (local non-Arab converts to Islam). Over time, residents of *amsar* moved into areas heavily populated with non-Muslims while non-Muslims started infiltrating *amsar*. Interestingly, it is this intermixing in cities and towns that caused non-Muslims to appear to have too many rights as Muslims began to constantly compared themselves to their non-Muslim neighbors.<sup>83</sup>

Phase two was generated by Muslims' upset with the liberal conditions non-Muslims were granted in the initial surrender agreements. As the number of Muslims rose in these territories (due to immigration, the conversion of non-Muslims, and the stability of the caliphate), these liberal rights became intolerable for Muslims.<sup>84</sup> In the eyes of this

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<sup>81</sup> Ibid, 239-240

<sup>82</sup> Kennedy, Hugh. *The Prophet and the Age of the Caliphate: The Islamic Near East from the Sixth Century to the Eleventh Century*, pp. 67-68.

<sup>83</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 68-69.

<sup>84</sup> Ibid, 113-114.

group, being Muslim gave them an inherent superiority over people of other religions and ethnicities, particularly in the public sphere.<sup>85</sup> By the eighth and ninth centuries, Muslims believed that their superiority was guaranteed by the Qur'an and the major tenets of Islamic law and political theory. As a result, their status needed to be seen and reflected in the happenings of daily life. However, the reason that it was not, was all thanks to the initial agreements.

Revealed by Muslims' dissatisfaction, it is at this point that the historical conditions had clearly changed. It was apparent that what had worked for the conquering Muslims during the initial conquests started appearing inappropriate for the politically and militarily dominant Muslims several generations later. With the centralization of the Abbasid state, there appeared the perceived need to come up with some sort of standard rules and regulations for *dhimmi*s in order to satisfy the empire's Muslim population. As a result, Muslim jurists in the late eighth and ninth centuries started thinking about how to change the regulations for *dhimmi*s so that they reflected their "humble" social and political standing.<sup>86</sup> However, due to the legally binding nature of the initial agreements, the regulations for *dhimmi*s could not be changed without making the Muslims look as if they were reneging on their own surrender agreements from the early days of the conquests.<sup>87</sup>

In order to get around this little problem, Muslims jurists decided to start proposing new regulations under the guise of "ancient surrender agreements". They did this by presenting new strict regulations as "ancient traditions" that were part of the

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<sup>85</sup> Ibid, 59.

<sup>86</sup> Lambton, Ann K. S. 2014. *State and Government in Medieval Islam*, pp. 206-208.

<sup>87</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 69.

early, original surrender agreements. Allegedly forgotten or lost, since these harsh stipulations were part of the original agreements, the jurists were able to legally justify “reintroducing” them. Though this argument was completely bogus, jurists declared that *dhimmis* had broken the initial stipulations as spelled out in the original surrender agreements and therefore they now needed tougher regulation. As one would expect, these “ancient” stipulations used questionable evidence to back up their claims such as unreliable Hadith reports.<sup>88</sup> Another justification jurists gave for stricter, standardized regulations was the diverse array of surrender agreements that existed.<sup>89</sup> Since each town could have a slightly different agreement based on their circumstances, it could be difficult for Muslims to keep these agreements straight and fueled their outrage at the freedoms of non-Muslims.

As a result of these developments, various competing agreements arose, each of which worked to standardized and strengthen *dhimmi* regulations. Chief among these, was the Shurut Umar (Pact of Umar). Although originally written around 800 CE, this “agreement” and its long list of strict restrictions were passed off as being part of an original surrender agreement from the time of the conquest.<sup>90</sup> In fact, jurists attributed the formation of this document to caliph ‘Umar I during his rule from 634 CE to 644 CE.<sup>91</sup> By crediting ‘Umar I with creating this agreement, Muslim jurists were able to add credence and historical context to their claim that this document was part of the early agreements. Ultimately, the Shurut Umar (Pact of Umar) won out as the empire’s

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<sup>88</sup> Ibid, 70-82.

<sup>89</sup> Lambton, Ann K. S. 2014. *State and Government in Medieval Islam*, pp. 204.

<sup>90</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 113.

<sup>91</sup> Ibid, 60.

canonized agreement and its regulations became the ones that all *dhimmis* now had to abide by under Islamic law.<sup>92</sup>

Although disguised as authentic, legal obligations, at their core, the Shurut Umar's new regulations were meant to humble the non-Muslims who lived in cities with Muslims. In order to accomplish this, these obligations were designed to visibly showcase Muslims' social and political superiority over non-Muslims.<sup>93</sup> According to al-Turtushi's translated version of the document, stipulations included not bearing any kind of arms, not building houses taller than Muslim houses, not imitating Muslims in speech, and rising from their seats when Muslims wanted to sit.<sup>94</sup> In addition, non-Muslims were banned from building new places of worship, wearing personal attire similar to Muslim attire, using transportation animals like horses, and restricted on how and when they could publicly practice their faith.<sup>95</sup> As one can see, compared to the true, early agreements, these additions seriously restricted the lives of non-Muslims in both the public and the private sphere.

In fact, these stipulations had larger implications than just what non-Muslims could wear on a daily basis. Although these obligations were not enforced to the same degree everywhere in the empire, their introduction was felt sharply. For example, if non-Muslims could not use horses, it would have been extremely difficult to travel outside a small area. In addition, a non-Muslim could not work in numerous professions like being a trader or a merchant if he could not use a horse. Another far reaching consequence of

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<sup>92</sup> Ibid.

<sup>93</sup> Lambton, Ann K. S. 2014. *State and Government in Medieval Islam*, pp. 206-208

<sup>94</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 172.

<sup>95</sup> Donner, Fred M. 2016. *The Early Islamic Conquests*, pp. 246.

these obligations is the changes it would prompt in non-Muslim religious practices. For instance, since adherents could not conduct processions on Palm Sunday and Easter, how this celebration was observed each year had to be significantly altered to meet Islamic stipulations.<sup>96</sup> This impact holds true when one considers the fact that non-Muslims were also not able to raise their voices in church, use clappers except at a very soft volume, or bury their dead near Muslims just to name a few of these new obligations. Overall, the Shurut Umar had a significant, long lasting impact on the lives of non-Muslims by revoking many of their previous rights.

Based on this explanation, it is clear that the surrender agreements, their stipulations, and how they facilitate integration had a significant impact on the social and political structure of the empire. From the caliph to the a non-Muslim farmer, the impact of these agreements influenced daily life. For the common people, they determined how one behaved, dressed, worshiped, and worked. On the other side, these agreements ran the empire's administration by allowing them to set up a structure based on the collection of non-Muslim taxes. Additionally, when these agreements were not honored, people noticed and it was viable fuel to help spark one of the various rebellions that emerged during the Umayyad Caliphate. Overall, there is evidence that, at least initially, Muslim conquerors were purposefully using surrender agreements to help integrate non-Muslims.

## **Conclusion**

By utilizing surrender agreements, the Islamic empire was able to gain much needed legitimacy and facilitate the integration of non-Muslims from their conquered

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<sup>96</sup> Levy -Rubin, Milka. *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, pp. 172.

territories into their newly established society. Rooted in Roman tradition, these early documents were straightforward in nature, simply exchanging the promise of protection and relative independence on the part of the Muslims for the payment of *jizya* by non-Muslims. In general, these original surrender agreements did not impose many restrictions on the lives of the conquered non-Muslims and allowed them to continue on with their regular lives relatively undisturbed. This paired with their adaptable nature made surrender agreement an ideal tool to promote non-Muslim integration into the Islamic caliphate.

In addition, surrender agreements established the initial *dhimmi* status of the conquered and outline their relationship with the Muslim conquerors. By doing this, these documents created a social and legal framework in which a new Muslim society could be established and gradually develop. Furthermore, since they were legally binding, non-Muslims could ensure that Muslims preserved their rights throughout the centuries and vice versa. Over time, these agreements were incorporated into *siyar* and understood to be a piece of genuine Islamic law.

While the surrender agreements made during the Islamic conquests clearly facilitated non-Muslim integration, the same cannot be said for the Shurut Umar. Although marketed as an “ancient agreement”, this document was not a part of the agreements established during the conquests. In addition, the Shurut Umar was an essential component of Muslims’ quest to limit the rights of non-Muslims in the late eighth and early ninth centuries. Eventually incorporated into Islamic law, this document standardized surrender agreements in the Islamic empire and greatly limited non-Muslims freedoms in an effort to reinforce Muslim superiority. Due to these restrictions, the

Shurut Umar was not meant to aid non-Muslims integration as the empire moved beyond this objective in the early ninth century.

Although there are issues with seventh and eighth century research, additional work will help unveil the mysteries of surrender agreements and push other scholars to carry on researching this subject. As historians know, it will take constant, thorough research to confirm with certainty that all the assertions in this paper are correct across all geographic regions. Thankfully, it is possible that other scholars can continue this research and push surrender agreements into the limelight. So, although more research needs to be done, it is clear that early surrender agreements contributed to non-Muslims' integration into the early Islamic caliphate.

*Non-Muslims in the Early Islamic Empire*

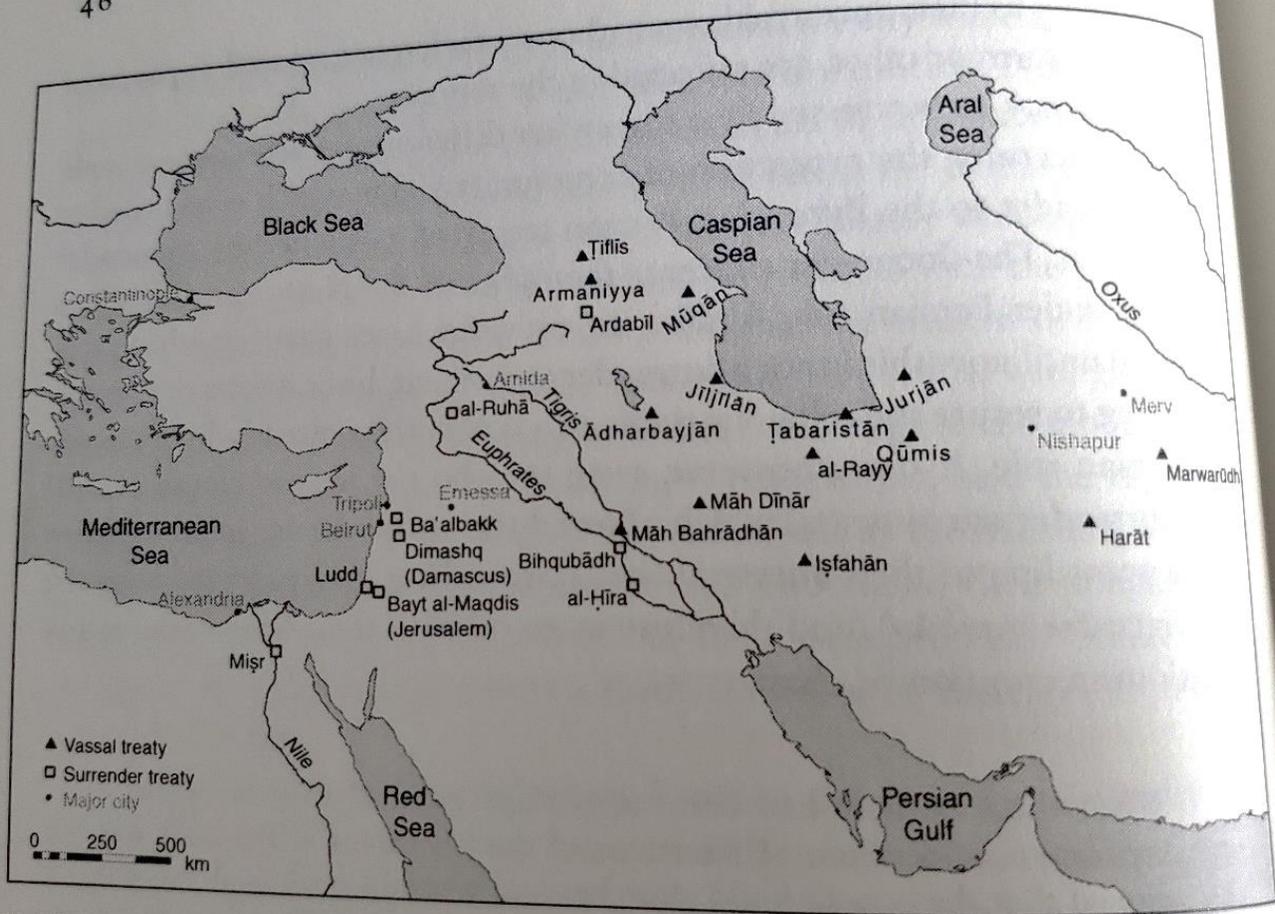


ILLUSTRATION 1. Map of the locations of surrender treaties and vassal treaties (only where the actual text of the treaty is cited)

Illustration 1. Map of the locations of surrender treaties and vassal treaties (only where the actual text of the treaty is cited).

Citation: Levy-Rubin, Milka. *Non-Muslims in the Early Islamic Empire : From Surrender to Coexistence*. New York: Cambridge University Press, 2011, pp. 46.

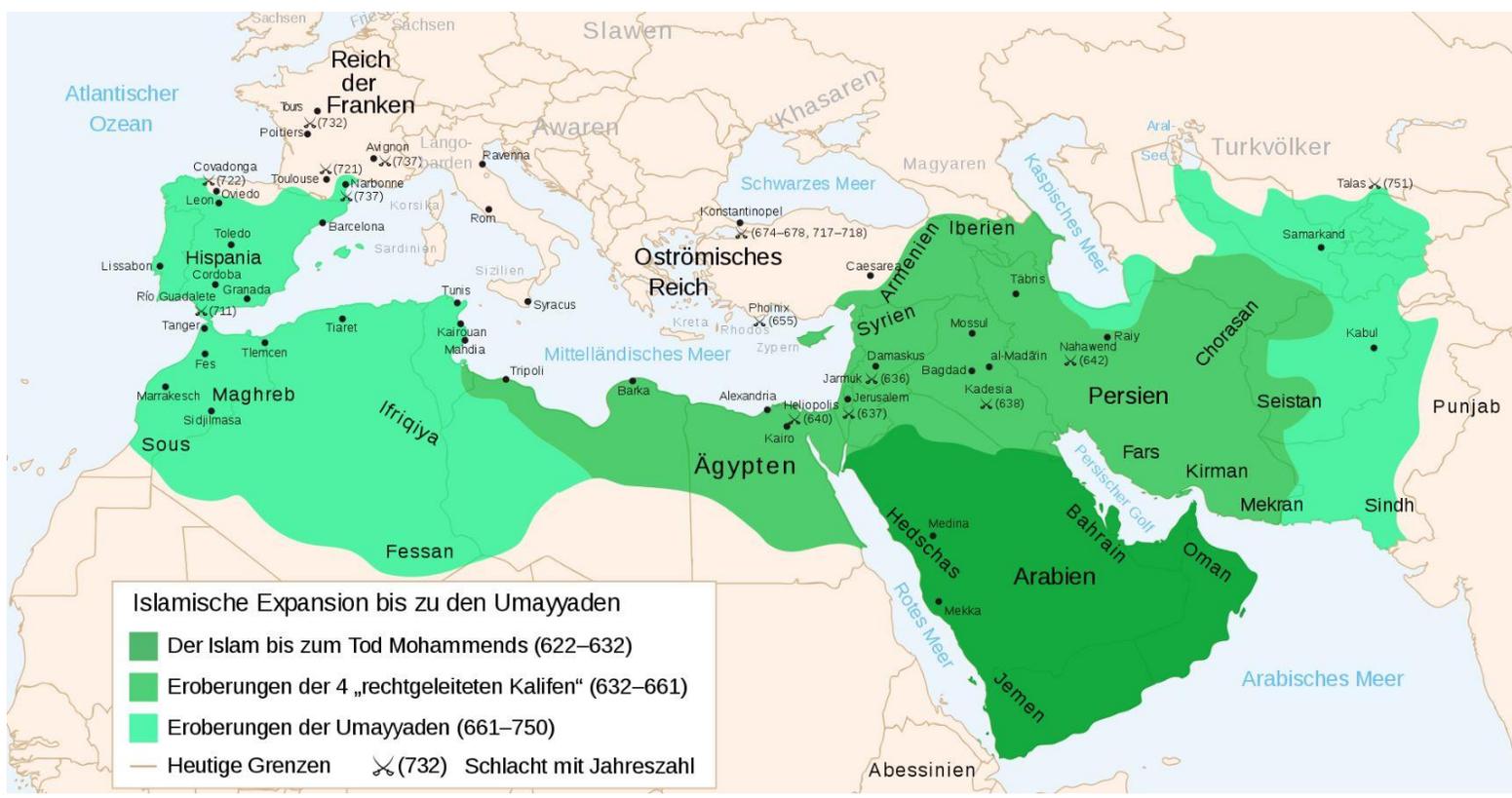


Illustration 2. This is a map of the Islamic empire at the end of the Umayyad Caliphate in 750 CE. Dark green represents the Prophet Muhammad’s consolidation, medium green is the Rashidun’s conquests, and light green depicts the Umayyad’s conquests.

Citation: Khan, Syed Muhammad. “Umayyad Dynasty.” *Ancient History Encyclopedia*. *Ancient History Encyclopedia*, April 9, 2020. [https://www.ancient.eu/Umayyad\\_Dynasty/](https://www.ancient.eu/Umayyad_Dynasty/).

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