713: The Treaty of Tudmīr as a Testimony to the Muslim Subjection of the Iberian Peninsula

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Abstract: Despite its late transmission in Arabic-Islamic sources of the fifth–eighth / eleventh–fourteenth centuries, the treaty of surrender known as the "Treaty of Tudmīr" is commonly regarded as a document which gives an impression of how the Muslim conquest and the subsequent establishment of Muslim rule on the Iberian Peninsula proceeded after 92/711. The commentary compares the different surviving versions, discusses the authenticity of the document, and places it in the broader context of how Islamic law became established and systematised on the Iberian Peninsula.

Source

Al-ʿUḏrī, *Tarṣīʿ al-aḫbār wa-tanwīʿ al-āṯār, wa-l-bustān fī ġarāʾib al-buldān wa-l-masālik ilā ǧamīʿ al-mamālik*, ed. ʿAbd al-ʿAzīz al-Ahwānī, Madrid: Instituto de estudios islámicos en Madrid, 1965, pp. 4–5, trans. Daniel G. König.

بسم الله الرحمن الرحيم. هذا كتاب من عبد العزيز بن موسى لتدمير بن غندريس إذ نزل على الصلح أن له عهد الله وميثاقه وما بعث به أنبياءه ورسلَه، وأن له ذمة الله عز وجل وذمة محمد صلى الله عليه وسلم ألّا يقدم له وألّا يؤخر لأحد من أصحابه بسوء، وأن لا يُسبَون ولا يفرق بينهم وبين نسائهم وأولادهم، ولا يقتلون، ولا تحرق كنائسهم، ولا يكرهون على دينهم، وأن صلحهم على سبع مدائن: أوريُولة، ومؤُلة، ولورقة، وبَلَنتَلَه، ولقنت، وإيه، وإلش، وأنه لا يدع حفظ العهد، ولا يحل ما انعقد، ويصحح الذي فرضناه عليه وألزمناه أمره، ولا يكتمنا خبراً علمه، وأن عليه وعلى أصحابه غُرم الجزية، ومن ذلك كل حر: دينار، وأربعة أمداء من قمح، وأربعة أمداء من شعير، وأربعة أقساط

In the name of God, the Merciful, the Beneficent. This is a writ (*kitāb*) by ʿAbd al-ʿAzīz b. Mūsā for Tudmīr b. Ġandrīs when he entered into a peace agreement according to which he is entitled to a treaty (ʿahd) of God and His alliance (*mīṯāq*) and what He [God] has conveyed to His prophets and messengers, and that he is entitled to the protection (*ḏimma*) of God, may He be exalted and glorified, and the protection of Muḥammad, God bless him and grant him peace, that no one shall be set over him as a superior, that no harm shall befall any of his companions, that they shall not be led into captivity, that they shall not be separated from their their wives and children, that they shall not be killed, that their churches shall not be burnt, that they not be alienated from their religion (*dīnihim*), and that their treaty (*ṣulḥahum*) shall be valid for seven cities: Orihuela, Mula, Lorca, Baltana, Alicante, Ello, and Elche, and that he shall not abandon the observance of the treaty (*al-ʿahd*) and not dissolve what he has consented to observe, and confirm what conditions we have imposed on him and what we have obliged him to perform: that he not conceal from us any news brought to him, that he and his companions are required to pay the poll-tax (*ǧizya*), of which each free man is to pay: one Dīnār, four measures (*amdāʾ*) of wheat, four

خل، وقسطا عسل، وقسط زيت .وعلى كل عبد نصف هذا.

measures of barley, four measures (*aqsāṭ*) of vinegar, two measures of honey, and one measure of oil. For each slave, half of this.

شهد على ذلك: عثمان بن عبيدة القرشي وحبيب بن أبي عبيدة القرشي وسعدان بن عبد الله الربعي وسليمان بن قيس التجيبي ويحيى بن يعمر السهمي وبشر بن قيس اللخمي ويعيش بن عبد الله الأزدي وأبو عاصم الهذلي وكتب في رجب سنة أربع وتسعين.

Witnessed by: ʿUṯmān b. ʿUbayda al-Qurašī, Ḥabīb b. Abī ʿUbayda al-Qurašī, Saʿdān b. ʿAbd Allāh al-Rabʿī, Sulaymān b. Qays al-Tuǧībī, Yaḥyā b. Yaʿmur al-Sahmī, Bišr b. Qays al-Laḫmī, Yuʿayš b. ʿAbd Allāh al-Azdī, Abū ʿĀṣim al-Haḏalī, written in the month of Raǧab of the year 94 [April 713].

Authorship & Work

[§1] The Treaty of Tudmīr is a treaty of peace and surrender said to have been concluded in the month of Raǧab in the year 94, i.e. in April 713, in the southeast of the Iberian Peninsula between ʿAbd al-ʿAzīz b. Mūsā b. Nuṣayr and a certain Tudmīr. According to the current state of knowledge, it is the only treaty of peace and surrender concluded in the period of the Muslim invasion that has survived from the Iberian Peninsula.[1]

[§2] ʿAbd al-ʿAzīz b. Mūsā b. Nuṣayr was one of two sons of the conqueror of al-Andalus, Mūsā b. Nuṣayr. The latter had first charged his client (*mawlā*) Ṭāriq b. Ziyād with the invasion, who crossed from North Africa to the Iberian Peninsula in 92/711. Confronted with Ṭāriq's success, Mūsā b. Nuṣayr felt compelled to enter the Iberian Peninsula with a second invasion army in Ramaḍān 93/June 712. He probably brought his son ʿAbd al-ʿAzīz with him.[2] When Mūsā was called back to Damascus around 95/713–714 by the Umayyad caliph al-Walīd (r. 86–96/705–715), ʿAbd al-ʿAzīz assumed the governorship of al-Andalus (r. ca. 95–97/714–716). Both Latin and Arabic sources attest that he had a bad reputation. He is said to have taken advantage of several women of the local nobility after establishing himself in Seville. After his marriage to the widow or daughter of the last Visigoth king Roderic (r. 710–711), the latter is said to have inspired him to toy with the idea of a secession and to crown himself. This provoked a conspiracy that led to his assassination and ushered in the governorship of Ayyūb b. Ḥabīb al-Laḫmī (r. 97/716).[3]

[§3] Tudmīr, in turn, was the local ruler of an area around the city of Orihuela, located in the southeast of the Iberian Peninsula. In the *Chronica muzarabica*, also known as the *Continuatio hispana* or "Chronicle of 754," he bears the Gothic name "Theodemir." This chronicle claims that he fought Greek (i.e. Byzantine) invaders under the Visigoth kings Egica (r. 687–702) and Witiza (r. 702–710) and, probably for this reason, was greatly honoured (*dignitas et honos*). Both among "Oriental Christians" and others, he is said to have been known as steadfast in his

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[1] The wording of treaties of subjection also survives from other regions, e.g. a corresponding treaty for the year 20/640–641 from Egypt in al-Ṭabarī, *Tārīḫ al-rusul wa-l-mulūk*, ed. Ibrāhīm, vol. 4, p. 109; translated in *The History of al-Ṭabarī, vol. 13*, trans. Juynboll, § 2588–2589, pp. 170–172.

[2] Lévi-Provençal, Mūsā b. Nuṣayr, p. 643.

[3] König, 711: Ibn ʿAbd al-Ḥakam, on the basis of *Continuatio hispana*, ed. Mommsen (MGH Auct. Ant. 11), § 79, p. 356; or *Chronica muzarabica*, ed. Gil (Corpus Scriptorum Muzarabicorum 1), § 51, pp. 35–36; Ibn ʿAbd al-Ḥakam, *Futūḥ Miṣr wa-aḫbāruhā*, ed. Torrey, pp. 211–213.

faith, as knowledgeable in the holy scriptures, as eloquent, and as militarily successful.[4] Arabic-Islamic sources also portray Theodemir/Tudmīr as a prudent and successful person. According to the earliest surviving Andalusian chronicler Ibn Ḥabīb (d. 238/853), Tudmīr had informed the Visigoth king Roderich about the Muslim invasion of the Iberian Peninsula.[5] As one of several historiographical works on the time of the conquest, the Andalusian chronicle *Aḫbār maǧmūʿa*[6] reports that Tudmīr suffered a dramatic defeat against the Muslims around Orihuela, which almost led to the complete destruction of his army. The few survivors fled to Orihuela, where, however, they encountered no further defensive resources. Tudmīr, described as "experienced and astute" (*muǧarraban šadīd al-ʿaql*) by the chronicle, then ordered the women of the city to stand on the city wall with long sticks and to tie their hair in such a way that they would be mistaken for armed bearded men from a distance—a literary motif that is also found in historiography on the Langobards.[7] Since the approaching Muslims mistook the assembled women for an army, Tudmīr managed to obtain advantageous surrender conditions for the townspeople in skilful negotiations. Although they realised that only few fighters were present when they entered the city, the Muslims chose to respect these conditions. While it describes the preliminaries leading up to the conclusion of the treaty in such detail, the chronicle *Aḫbār maǧmūʿa* neither mentions a concrete treaty nor ʿAbd al-ʿAzīz as the person to have negotiated on the Muslim side.[8]

[§4] The near contemporary *Chronica muzarabica* claims that Theodemir maintained good relations with Muslim governors. It suggests that he paid a visit to the caliph in Damascus, during which the treaty (*pactum*) concluded with ʿAbd al-ʿAzīz was ratified. This direct connection to the caliph then ensured that the treaty was not questioned by future governors. After Theodemir's death in 744, however, his successor Athanagild was obliged to pay 27,000 solidi to the governor Abū l-Ḫaṭṭār al-Ḥusām b. Ḍarār al-Kalbī (r. 125–127/743–745). The latter needed the money to cover the costs incurred by the governorate as a result of the great Berber revolt, which had required the settlement of troops from Syria under the leadership of Balǧ b. Bišr in al-Andalus. When Athanagild managed to procure the money within three days, he was restored to the governor's favour.[9] With regard to the Arabic-Islamic sources, we should acknowledge that Theodemir was apparently considered such an important figure of the conquest period that the area around Orihuela received the name "Tudmīr" in both historiographical and geographical writings.[10] It is also reported that he married his daughter to an Umayyad client named ʿAbd al-Ǧabbār b. Ḫaṭṭāb, who had come to the Iberian Peninsula with the Syrian troops under Balǧ b. Bišr in 123/741.[11]

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[4] *Chronica muzarabica*, ed. Gil, § 47, p. 34; *Continuatio hispana*, ed. Mommsen, § 74–75, p. 354; Wolf, *Conquerors*, § 87,1, p. 151.

[5] Ibn Ḥabīb, *Kitāb al-tārīḫ*, ed. Aguadé, § 396, p. 137.

[6] Researchers date it variously between the ninth and twelfth centuries, see James, *History of Early Al-Andalus*, pp. 3–42.

[7] According to the *Origo gentis Langobardorum*, the Winnili use the same ruse in their battle against the Vandals and are thereupon called "Longbeards," i.e. Langobards, by the Germanic god Wodan. See *Origo gentis Langobardorum*, ed. Waitz (Scriptores rerum Langobardicarum), cap. 1, p. 2: "venirent winniles et mulieres eorum crines solutae circa faciem in similitudinem barbae et cum viris suis venirent." See Pohl, Geschichte und Identität, p. 563.

[8] *Aḫbār maǧmūʿa*, ed./trans. Lafuente y Alcántara, pp. 12–13 (AR), p. 26 (ES).

[9] *Chronica muzarabica*, ed. Gil, § 47, p. 34; cf. *Continuatio hispana*, ed. Mommsen, § 74–75, p. 354; Wolf, *Conquerors*, § 87,1, p. 151.

[10] See, for example, *Aḫbār maǧmūʿa*, ed./trans. Lafuente y Alcántara, p. 12 (Arab.), p. 26 (Span.); Ibn al-Faqīh al-Hamaḏānī, *Kitāb al-Buldān*, ed. de Goeje, p. 87; Ibn ʿAbd al-Munʿim al-Ḥimyarī, *Kitāb al-Rawḍ al-miʿṭār fī ḫabar al-aqṭār*, ed. ʿAbbās, p. 132.

[11] Molina, Los Banu Jattāb, pp. 289–307.

Content & Context

[§5] The Treaty of Tudmīr has not survived in contemporary records. The earliest surviving documentation is found in the fragmentary geo-/historiographical work *Tarṣīʿ al-aḫbār* by al-ʿUḏrī (d. 478/1085), which provided the basis for the treaty text as cited here.[12] Aside from this, the treaty is also cited in the biobibliographical lexicon of another Andalusian author named al-Ḍabbī (d. 599/1203).[13] Finally, two works by two North African authors also contain the text of the treaty. These are the geographical encyclopaedia of Ibn ʿAbd al-Munʿim al-Ḥimyarī (late 13th/early 14th century)[14] and a literary commentary by Abū l-Qāsim al-Sabtī (d. 760–761/1359–1360).[15]

[§6] In each case, the text is framed differently: in al-ʿUḏrī, the treaty document is part of an account of the history of various places on the Iberian Peninsula, including Tudmīr. The work, which only survives in fragmentary form, begins with a description of the city of Lorca, then traces the route from Córdoba to Tudmīr, describes the Tudmīr region in more detail, and then cites the treaty in this context. This is followed by a short account of the disputes between various Arab factions in Tudmīr after the conquest of the region. The section ends with remarks on the construction of the city of Murcia and the curious marvels of the Tudmīr region (*al-ġarāʾib fī balad Tudmīr*). In al-Ḍabbī's work, the treaty is part of the biographical entry on a certain Ḥabīb b. Abī ʿUbayda, who also figures in all surviving lists of witnesses to the treaty. This man is defined as the grandson of one of the conquerors of North Africa, ʿUqba b. Nāfiʿ. He is said to have arrived on the Iberian Peninsula with Mūsā b. Nuṣayr as part of the invasion army's tribal units (*wuǧūh al-qabāʾil*) and to have joined a group led by Mūsās son ʿAbd al-ʿAzīz. In this context, the Treaty of Tudmīr serves as historical evidence to prove that his name is correct.[16] In al-Ḥimyarī's geographical encyclopaedia, the treaty is cited within the lemma "Tudmīr." The latter briefly traces the region's name "Tudmīr" back to the local ruler of the same name and then immediately cites the text of the treaty, with which the lemma also ends.[17] The work of al-Sabtī constitutes an extremely detailed literary commentary on a famous poem, the so-called *Maqṣūra* by Ḥāzim al-Qarṭāǧanī (d. 684/1285), whose characteristics and symbolism Abū l-Qāsim al-Sabtī explains.[18] Since verse 926 of the Maqṣūra mentions the region of Tudmīr, the North African scholar explains the origin of this regional name and then quotes the full treaty.[19]

[§7] Despite the different contexts and functions of the treaty text in each of these works, the four versions of the treaty are almost identical. According to all four versions it is a document issued by ʿAbd al-ʿAzīz b. Mūsā to a certain Tudmīr, who is considered to be the lord of Orihuela and various other cities. The treaty texts only differ in detail.

[§8] To begin with, Tudmīr's genealogy features a number of orthographic variants. Al-ʿUḏrī refers to him as "son of Ġandrīs," al-Ḍabbī as "son of Ġabdūš," al-Sabtī as "son of ʿAbdūs," al-Ḥimyarī either as "son of Ġandras," or, in a manuscript variant, as "son of ʿAbdūš."

[§9] Tudmīr is described as the lord of of seven cities in all versions of the treaty. However, his sphere of rule is not always identical: al-ʿUḏrī defines him as lord of the cities of Orihuela, Mula, Lorca, Baltana, Alicante, Ello, and Elche. Al-Ḍabbī and al-Ḥimyarī claim that he ruled

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[12] Al-ʿUḏrī, *Tarṣīʿ al-aḫbār*, ed. ʿAbd al-ʿAzīz al-Ahwānī, pp. 4–5.
[13] Al-Ḍabbī, *Kitāb Buġyat al-multamis fī tāʾrīḫ riǧāl ahl al-Andalus*, ed. Codera, Ribera, § 675, p. 259.
[14] Al-Ḥimyarī, *Kitāb al-Rawḍ al-miʿṭār fī ḫabar al-aqṭār*, ed. ʿAbbās, p. 132.
[15] Abū l-Qāsim al-Sabtī, *Rafʿ al-ḥuǧub al-mastūra ʿan maḥāsin al-maqṣūra*, ed. al-Haǧawī, pp. 1548–1549.
[16] Al-Ḍabbī, *Buġyat al-multamis*, ed. Codera, § 675, p. 259: "wa-ṯubita ismuhu fī kitāb al-ṣulḥ allaḏī katabahu ʿAbd al-ʿAzīz b. Mūsā b. Nuṣayr li-Tudmīr bin Ġabdūš allaḏī sumiyat bi-ismihi Tudmīr iḏ kāna malikahā wa-nusḫat ḏālika l-kitāb (…)."
[17] Al-Ḥimyarī, *Kitāb al-Rawḍ al-miʿṭār*, ed. ʿAbbās, pp. 131–132.
[18] Al-Sabtī, *Rafʿ al-ḥuǧub*, ed. al-Haǧawī, pp. 71–72.
[19] Al-Sabtī, *Rafʿ al-ḥuǧub*, ed. al-Haǧawī, pp. 1548–1549.

the cities of Orihuela, Baltana, Alicante, Mula, Villena, Lorca, and Ello. Al-Sabtī, in turn, presents Tudmīr as the ruler of seven cities, but only names the five cities of Orihuela, Baltana, Mula, Villena (*Bunīra*), and Lorca.

[§10] All four versions of the treaty describe the rights granted to and the duties imposed on the local population in almost identical terms: the conquerors confirm Theodemir/Tudmīr in his position of authority and grant his sphere of rule internal autonomy. They promise not to attack the region anymore and neither to capture nor to enslave the local population nor to separate families. They guarantee free worship and the security of all churches and cult objects. In return, the seven cities must nominally submit to the Muslims. They undertake not to supply information to the Muslims' enemies and—in the versions by al-Ḍabbī, al-Ḥimyarī, and al-Sabtī—not to house opponents of the Muslims and not to inflict any harm on the Muslims' allies. In all versions, the conquerors impose a precisely defined annual tax on the inhabitants of the region, with slaves only paying half of the amount. This tax remains terminologically undefined in most versions. Only the earliest version by al-ʿUḏrī, that is also cited here, refers to it as *ǧizya*, i.e. the poll tax for non-Muslims mentioned in the Qurʾan (Sura 9:29) and known from Islamic legal texts.[20]

[§11] The amount to be paid differs slightly: in al-ʿUḏrī's version, it amounts up to one dīnār, four measures (*amdāʾ*) of wheat, four measures of barley, four measures (*aqsāṭ*) of vinegar, two measures of honey and one measure of oil per head. Al-Ḍabbī's version additionally requires four measures of a product called *ṭilāʾ*, which Olivia Remie Constable translates as "malt."[21] In al-Sabtī's version, the inhabitants have to pay the aforementioned eight measures of grain and can then choose whether they wish to give four measures of vinegar or two measures of honey and two measures of oil. Al-Ḥimyarī's version, in turn, does not mention the four measures of wheat but requires four measures of a product called *ṭalā* instead. The latter probably corresponds to the *ṭilāʾ* mentioned in al-Ḍabbī's version. According to *Lane's Lexicon*, this term could refer to tar, but also to various liquid or semi-liquid lubricants, finally also various forms of thickened fruit juices or wine, perhaps also a form of wine vinegar.[22]

[§12] Probably the greatest differences are found in the list of witnesses: while al-Ḥimyarī refrained from mentioning the list of witnesses altogether, al-ʿUḏrī, al-Ḍabbī, and al-Sabtī mention three persons who, despite orthographic variants, can be regarded as identical. These are ʿUṯmān b. ʿUbayda al-Qurašī[23], then Ḥabīb b. Abī ʿUbayda al-Qurašī, who is treated in detail by al-Ḍabbī[24], finally a certain Abū ʿĀṣim al-Haḏalī.[25] Al-ʿUḏrī, however, mentions five additional witnesses who do not appear in the versions by the other two authors.[26] Al-Ḍabbī and al-Sabtī, in turn, each mention one witness who does not feature in al-ʿUḏrī's version and who, despite variants, shares the component "bin Maysara."[27]

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[20] Cahen, Djizya, pp. 559–562; Carmona González, Doctrina sobre la ǧizya, pp. 91–110.

[21] Constable, A Muslim-Christian Treaty, pp. 37–38.

[22] Lane, *Arabic-English Lexicon*, vol. 1, p. 1876.

[23] In al-Ḍabbī as ʿUṯmān b. Abī ʿAbda al-Qurašī, in al-Sabtī as ʿUṯmān b. Abī ʿUbayda al-Qurašī.

[24] In al-Ḍabbī, because of a *lacuna*, without the *nisba* al-Qurašī, in al-Sabtī as Ḥabīb b. Abī ʿAbda al-Qurašī.

[25] In al-Ḍabbī as Abū Qāʾim al-Haḏalī, in al-Sabtī as Abū l-Qāsim al-Haḏalī.

[26] Saʿdān b. ʿAbd Allāh al-Rabʿī, Sulaymān b. Qays al-Tuǧībī, Yaḥyā b. Yaʿmur al-Sahmī, Bišr b. Qays al-Laḫmī, Yuʿayš b. ʿAbd Allāh al-Azdī.

[27] In al-Ḍabbī, because of a *lacuna*, cited only as bin Maysara al-Fahmī, in al-Sabtī as ʿAbd Allāh bin Maysara al-Tamīmī.

Contextualization, Analysis & Interpretation

[§13] Most researchers accept the Treaty of Tudmīr as authentic evidence for the conquest period of the Iberian Peninsula, despite its later transmission and the variants listed above. Only Luis Molina has doubted the document's authenticity.[28]

[§14] First, Molina points out that we know very little about Theodemir in general. It is not certain whether we can identify him with a Theodemir mentioned in the acts of the sixteenth Council of Toledo (694). And while the additional information provided by the *Chronica muzarabica* fits the text of the treaty well, the corresponding passages have been marked as interpolations by several researchers.[29]

[§15] Second, Molina emphasises that the few documents that mention the concrete historical context of the treaty are inconsistent. He identifies two historiographical traditions. In the first, more detailed tradition, Tudmīr was not conquered by ʿAbd al-ʿAzīz, but by Muslim troops who had entered the Iberian Peninsula with Ṭāriq b. Ziyād in 92/711.[30] In the second tradition, the conqueror of Tudmīr is identified as the son of Mūsā b. Nuṣayr, who is occasionally called ʿAbd al-Aʿlā, not ʿAbd al-ʿAzīz.[31]

[§16] Molina points to the fact that only two works place the text of the treaty in a precise historical context. This is the case in the passage taken from the geographical work of al-ʿUḏrī quoted above, and in the Castilian *Crónica de 1344*, which is based on Portuguese and Arabic predecessors. In al-ʿUḏrī's version, the treaty is concluded by ʿAbd al-ʿAzīz b. Mūsā, but the conquest of Tudmīr is then reported to Ṭāriq b. Ziyād. According to Molina, ʿAbd al-ʿAzīz would have had to report the conquest to his father Mūsā, not to the latter's client, Ṭāriq b. Ziyād. For it is well known that Ṭāriq's military success had led to tensions with Mūsā, who, for this reason, moved to the Iberian Peninsula in 93/712 with his own troops to assume the leading role in the invasion. According to the *Crónica de 1344*, Tudmīr was first conquered by Ṭāriq's troops. Then Mūsā sent his son ʿAbd al-ʿAzīz from Mérida to Seville, who conquered Tudmīr a second time, concluding the treaty in the process. In view of these discrepancies, Molina assumes that the text of the treaty documented by al-ʿUḏrī and later authors was manipulated in order to adapt it to the reported historical context. It should be emphasized, however, that Molina's doubts primarily concern the transmission of the treaty itself, not the fact that Muslims of the invasion period actually concluded a treaty with a local ruler named Theodemir.[32] Molina's criticism is justified, but not completely convincing.

[§17] On the one hand, we must concede that the passages in the *Chronica muzarabica* describing the circumstances of the treaty are indeed interpolations. However, where they came from and why they should have been inserted later remains unclear.[33] It is thus impossible to decide whether the information reported in the *Chronica muzarabica* concerning Theodemir must be dismissed as false. It is clear, in any case, that the interpolations are not necessarily taken from later Arabic sources. The *Chronica muzarabica* contains details about Theodemir's

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[28] Molina, Tudmīr, pp. 584–585.

[29] See Wolf, *Conquerors*, p. 151, FN 180. This is also evident in the editions by Mommsen and Gil, where both the paragraph on Theodemir and the paragraph following the remarks on Athanagild both begin in mid-sentence. See *Continuatio hispana*, ed. Mommsen, §§ 74–75, p. 354; *Chronica muzarabica*, ed. Gil, §§ 47–48, p. 34.

[30] Molina identifies this tradition in the chronicle *Aḫbār maǧmūʿa*, in Ibn al-Aṯīr, *al-Kāmil fī l-tārīḫ*, Ibn ʿIḏārī, *Kitāb al-Bayān al-muġrib*, al-Maqqarī, *Nafḥ al-ṭīb*, in a fragment attributed to Ibn Abī l-Fayyāḍ, and also in Christian sources, e.g. Rodrigo Jiménez de Rada, *De rebus Hispaniae* and the *Cronica de 1344.*

[31] Molina identifies this tradition in the works of Muʿāwiya b. Hišām al-Šabānisī, Ibn Ḥayyān, and Ibn al-Ḫaṭīb.

[32] See Molina, Tudmir, p. 584: "The only fact which is historically reliable is that Theodemir at the time of the Muslim conquest was the governor of a region to which he was to give his name, and that he surrendered to the invading troops by concluding a treaty with them."

[33] Compare Cardelle de Hartmann, Textual Transmission, pp. 13–29.

position under the Visigoth kings Egica and Witiza and his reputation among Oriental Christians that do not form part of the standard Arabic-Islamic narrative about Tudmīr.[34]

[§18] On the other hand, Molina seems to assume that the first two years of the conquest period (711–713) can be reconstructed without becoming entangled in contradictions. Considering the chaos of these two years and the complex constellation of primary source evidence, this seems rather unrealistic. The circumstances that led to the Treaty of Tudmīr can be reconstructed on the basis of an interpolated Latin source written about forty years after the conclusion of the treaty, as well as by drawing on an array of Arabic-Islamic sources that contextualized and developed this tradition in various ways. Only in the four cases mentioned here, do we have access to a variant of the treaty text. The Latin and Arabic textual traditions are connected by a web of highly entangled threads. Although efforts have been made to reconstruct the latter, it seems impossible to arrive at reliable results, among other things because the relations between these texts have to be reconstructed with the help of texts that have already been lost. In view of this, it is not clear how one wants to find out for certain whether the region of Tudmīr was conquered by Ṭāriq's troops or those of ʿAbd al-ʿAzīz, whether the latter actually concluded the treaty, and whether the conclusion of the treaty was then reported to Ṭāriq or to Mūsā.

[§19] Against this backdrop, it seems rather daring to base an argument of authenticity on the (perfectly reasonable) consideration that ʿAbd al-ʿAzīz should have reported the news of having concluded the treaty to his father Mūsā and not to his client Ṭāriq. For all we know, ʿAbd al-ʿAzīz may have even sent this news to Ṭāriq, e.g. because the latter's troops were geographically closer. In the rather precarious situation of a conquest, this may have seemed to be the most reasonable thing to do.

[§20] In the final analysis, Molina's criticism does not really clarify what exactly is to be considered inauthentic in the surviving treaty of Tudmīr—only the "issues of personnel," specifically the role of ʿAbd al-ʿAzīz, the exact timing, or even the treaty's content.[35] For if one assumes with the majority of researchers that the text of this document contains fundamental elements of a treaty of submission characteristic of the early conquest period on the Iberian Peninsula, then it can be inserted very plausibly into the extant historiographical documentation as well as into existing research on the Arabic-Islamic expansion.[36]

[§21] On the one hand, both the *Chronica muzarabica* and the Arabic-Islamic tradition point to the existence of further treaties of peace and submission that were concluded in al-Andalus around the same period but have not survived verbatim.[37] The chronicle *Aḫbār maǧmūʿa* then credits the governor al-Samḥ (r. ca. 100–102/719–721) with having systematically collected information on the conditions of conquest in the various regions of the Iberian Peninsula. He is said to have distinguished between territories that were subjugated by concluding a peace treaty

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[34] On the Arabic-Islamic documentation of the Visigothic realm before the invasion, see König, *Arabic-Islamic Views*, pp. 150–188.

[35] Molina, Tudmīr, pp. 584–585.

[36] See, for example, Chalmeta Gendrón, *Invasión e islamización*, pp. 121, 206–209; Manzano Moreno, *Conquistadores, emires y califas*, pp. 43, 46, 53, 65, 67, 70, 106–109, 112, 117, 121, 143, 263, 265–267, 278, 454. Also see Levy-Rubin, *Non-Muslims in the Early Islamic Empire*, p. 57.

[37] See, for example, *Continuatio hispana*, ed. Mommsen, §§ 70–71, p. 353, or *Chronica muzarabica*, ed. Gil, § 45, pp. 32–33, with a very negative assessment of the treaties with Toledo (*pace fraudifica male*) as well as with Zaragoza and the cities surrounding it (*pacem nonnulle ciuitates qui residue erant iam coacte proclamitant*); *Aḫbār maǧmūʿa*, ed./trans. Lafuente y Alcántara, p. 18 (AR), p. 30 (ES), on the unfavourable terms of surrender for the city of Mérida after prolonged resistance: "They concluded the peace treaty (ṣālaḥū) to the effect that all the possessions of those killed on the day of the raid (*yawm al-kamīn)* and the wealth of those who had fled to Galicia should go to the Muslims, and the wealth and jewels of the churches to him [Mūsā b. Nuṣayr]. With this they opened [the gates] to him on the day of the breaking of the fast [30 Ramaḍān] of the year 94/29 June 713." Translated by Daniel G. König.

(ṣulḥan) or by force (ʿanwatan).[38] The compilation of Mālikī law by a certain Yaḥyā b. Yaḥyā al-Layṯī (d. 234/848) also refers to the treaties of subjection concluded during the conquest phase when it deals with the poll tax (ǧizya) to be paid by non-Muslims.[39] Formulating a legal precept of Islamic law theoretically applicable in the entire Muslim sphere of rule, this compilation marks the end of a process of legal systematization. In the course of this process, different legal relationships that had resulted from local agreements such as that of Tudmīr were gradually transferred into an overarching legal standard.[40]

[§22] A conceptualized legal framework that systematically defined the relationship between (formerly) subjected non-Muslims and (formerly) conquering Muslims was formulated in al-Andalus only after the conclusion of the Treaty of Tudmīr. This framework is generally known as the ḏimma system.[41] The surviving treaty text contains core concepts of this system. However, in view of the process of legal systematisation mentioned above, we must ask ourselves whether the conceptual content of the early conquest treaties corresponds to the theoretical level of reflection of later, systematically ordered legal compilations.

[§23] Al-ʿUḏrī's version of the treaty text uses several terms that describe the legal relationship between conquerors and conquered in explicitly religious terminology. The legal relationship is based on "the contract and alliance of God" (ʿahd Allāh wa-mīṯāquhu) as well as on "what He [God] has conveyed to His prophets and messengers" (mā baʿaṯa bihi anbiyāʾahu wa-rusulahu). The treaty thus invokes a history of divine revelation that began with the prophets of the Judeo-Christian tradition and led up to Muḥammad. It implies that divine revelation acquainted the prophets and messengers of God with a specific legal and social order. The latter forms the basis upon which "the protection of God" (ḏimmat Allāh) and "the protection of Muḥammad" (ḏimmat Muḥammad) are granted within the framework of a peace treaty that ended hostilities (al-ṣulḥ). Al-ʿUḏrī, who is the only one to use the Qurʾānic term "poll tax" (al-ǧizya), employs the most detailed terminology. This is then reduced to the terms "peace treaty" (al-ṣulḥ), "treaty of God" (ʿahd Allāh), "protection of God" (ḏimmat Allāh), "protection of his Prophet" (dimmat nabīhi) in the three later versions.

[§24] Taking into account both Molina's discussion of possible textual manipulations on the one hand, and the process of legal systematisation on the Iberian Peninsula, which lasted over a century, on the other, we must ask whether al-ʿUḏrī faithfully reproduced the terminology of the original treaty or enriched it conceptually from the retrospective of the eleventh century. It also seems possible that the versions written down after al-ʿUḏrī dispensed with this terminology, given that al-Ḍabbī, the author of a biobibliographical encyclopaedia, the geographer al-Ḥimyarī, and the literary critic al-Sabtī were not concerned with the exact depiction of legal issues. Although these questions cannot be clarified conclusively, they show that we should be cautious: we cannot assume automatically that Muslims of the early conquest period had a sophisticated conceptualisation of the legal relationship between Muslim conquerors and non-Muslim conquered. In the extant versions of the treaty, the conquerors' security guarantees were granted in return for defined services, confirmed with reference to a tradition of revelation going back to the remote Judeo-Christian past, and guaranteed in the name of God and Muḥammad, the latter recognized as prophet only by the Muslims. The tax to be paid, referred to as ǧizya by al-ʿUḏrī, was also part of this religious frame of reference.

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[38] *Aḫbār majmūʿa*, ed./trans. Lafuente y Alcántara, pp. 23–24 (AR): "fa-waḍaʿa yadan fī l-suwāl [sic] ʿan al-ʿanwa li-yumayyizahu min al-ṣulḥ", p. 35 (ES).

[39] Mālik b. Anas (d. 179/795), *al-Muwaṭṭāʾ bi-riwāyatihi Yaḥyā al-Layṯī* (d. 234/848), ed. al-Salafī, vol. 2, lib. 17 (kitāb al-zakāt), ḥadīṯ 673 (45), pp. 293–294.

[40] See König, Charlemagne's 'Jihād,' pp. 12–18, and in particular Levy-Rubin, *Non-Muslims in the Early Islamic Empire*.

[41] See Cahen, Dhimma, pp. 227–231.

Beyond these findings, however, it is questionable whether we can claim that the Islamic system of *ḏimma* had already reached maturity in the conquest period.

[§25] Despite all uncertainties of transmission and terminology, the Treaty of Tudmīr gives us insight into the early phase of the conquest of the Iberian Peninsula. Among other things, the latter was characterised by the efforts of both Muslim conquerors and non-Muslim conquered taking the first steps towards a treaty-based *modus vivendi*. The conditions leading to surrender differed depending on whether the respective locality came under Muslim rule as a result of negotiations or after its military resistance had been broken. On the one hand, negotiations of surrender addressed material issues of potential booty and tax payments to be made from now on. On the other hand, negotiations also pursued the objective of establishing a regulated and non-violent relationship between conquerors and conquered within a symbolic frame of reference building on a shared monotheistic idea of God and a prophetic tradition common to Jews, Christians, and Muslims. Moreover, the transmission of the Treaty of Tudmīr illustrates how the conditions of the conquest period became part of the collective memory of the Muslim inhabitants of a conquered region: among other things, the anthroponym Theodemir was transformed into a toponym designating an entire region in the south-east of the Iberian Peninsula. With the help of geographical, historiographical, biobibliographical, and literary texts, this collective memory was diffused in Arabic-speaking regions under Muslim rule, in particular al-Andalus and North Africa.

Edition(s) & Translation(s)

The text of the treaty is recorded in different variants

Al-ʿUḏrī, *Tarṣīʿ al-aḫbār wa-tanwīʿ al-āṯār, wa-l-bustān fī ġarāʾib al-buldān wa-l-masālik ilā ǧamīʿ al-mamālik / Fragmentos geográfico-históricos de al-Masālik ilā ǧamīʿ al-mamālik*, ed. ʿAbd al-ʿAzīz al-Ahwānī, Madrid: Instituto islámico, 1965, pp. 4–5.

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