



## Umar's Assurance to the People of Aelia

written by Kevin Abdullah Karim  
[islamic-answers.com](http://islamic-answers.com)

In this paperwork we shall analyze the Assurance [ *Aman* ] that Umar Ibn al-Khattab gave to the people of Aelia [ Jerusalem ] . Before we start we would like to note that Umar's Assurance should not be confused with the so-called Pact of Umar [ *Al-Shurut al-Umariyya* ] , which has been falsely attributed to Umar Ibn al-Khattab. <sup>1</sup> As noted by Prof. Abd al-Fattah El-Awaisi many historians have confused or mixed between these two unrelated and separate documents, which has led to a lot of confusion and contradiction in their discussing of Umar's Assurance [ *Al-Uhda al-Umariyya* ] <sup>2</sup>

### Treaty or Assurance ?

Before we start to analyze this document, it is vitally importance to clarify the nature of this document, is it a treaty or Assurance ? Most modern Arab scholars and orientalist have described what Umar granted to the people of Aelia as a "treaty" or an "agreement". Although Umar or his commanders may have negotiated with the inhabitants the surrender terms, the final product was certainly not an agreement as pointed out by Prof. Abd al-Fattah El-Awaisi in his book related to this topic. <sup>3</sup> Umar Ibn al-Khattab did not sign a treaty between two parties ; rather he gave the people of Aelia an Assurance of safety [ *Aman* ]. If a treaty, as has been claimed, where is the name of the second party who signed the agreement with Umar ? the simple answer is absent in all the available versions of the document. What the document contains in its opening and concluding paragraphs, especially the early accounts which provided texts of the document, such as Al-Ya'qubi, Eutyichins, and al-Tabari, highlights the fact that it is an Assurance not a treaty. For example, Al- Ya'qubi, who was the first to give the text, his first paragraph reads: "This is Kitab the document written by Umar Ibn al-Khattab to the people of Bayt al-Maqdis Islamic Jerusalem". <sup>4</sup> A similar opening was given by Eutyichins: "This is Kitab a document from Umar Ibn al-khattab to the people of Aelia". <sup>5</sup> The al-Tabari version is not exceptional ; his opening paragraph states:

This is the Assurance of safety Aman which the worshipper of God [ the second Caliph ] Umar [ Ibn al-Khattab ] , the Commander of the Faithful, 'Ata has granted [ gave ] to the people of Aelia.

- 1: See: Maher Y. Abu-Munshar : "Islamic Jerusalem and its Christians – A History of Tolerance and Tensions" ( Tauris Academic Studies 2007 ) , pp. 62-80
- 2: Prof. Abd al-Fattah El-Awaisi, "Umars' Assurance of Safety Aman to the People of Aelia ( Islamic Jerusalem ) – A Critical Analytical Study of the Historical Sources" [ Al-Maktoum Institute Academic Press 2005 ] , p. 3
- 3: Ibid. , pp.5-6
- 4: Al-Ya'qubi ( 1960 ) , "Tarikh al-Ya'qubi" [ Beirut ] , part two, pp. 46 , 167
- 5: Said Ibn al-Batriq ( Eutychius ) [ 1905 ] , "Al-Tarikh al-Majmu" [ Beirut ] , part two , p. 16

### **Al-Tabari's Version of Umar's Assurance**

In the name God, the most Merciful, the most Compassionate. This is the Assurance of safety [ aman ] which the worshipper of God [ the second caliph ] Umar [ Ibn al-Khattab ] , the Commander of the Faithful, has granted to the people of Aelia. He has granted them an Assurance of safety [ aman ] for

## Exclusion of the Jews

Despite the strength of the chain of narrators [ isnad ] in al-Tabari's version, the document has one controversial sentence: "No Jew should reside with them in Aelia". Abd al-Fattah El-Awaisi comments:

towards the end of the second paragraph of al-Tabari's version, we found a short sentence which contained only seven words in the original language of the document [ Arabic ] and eight words in the translated language [ English ] , "Now Jew should reside with them in Aelia". The structural position of this short sentence does not fit with the contents of the whole paragraph which, as discussed earlier, focus solely on the practical Muslim policy of recognition of others through determining their rights and the Muslim responsibilities towards them. It talks about *Aman* for anyone who stays in Aelia, without any exception or discrimination, and secures their religious freedom and protection in everything related to their holy places. Indeed, this suggests that this controversial sentence was not part of the original document and was probably added for religious or political reasons. Although it has been claimed that this restriction was placed on Umar Ibn al-Khattab by the inhabitants of Aelia, in particular the Patriarch Sophronius, it is "not" supported or even mentioned in any of the accounts preceding al-Tabari's.

Moreover, it would seem to conflict with the historical events and record known about the Muslim conquest of Islamic Jerusalem. The author [ Abd al-Fattah El-Awaisi ] has found no Arab historical source that confirms that Umar Ibn al-Khattab forbade the Jews from residing in Islamic Jerusalem. If made during the rule of Umar Ibn al-Khattab, such a condition would have been implemented.

Karen Armstrong had argued "...it was the practice of the Rashidun, when conquering a city, simply to endorse already existing arrangements and not to introduce major changes. It has been suggested that the supposed exclusion of the Jews may simply have been an initial step: the Byzantines had banned Jews from Aelia....Umar could simply have confirmed the status quo and, later, decided that it was not rational or just to exclude Jews from Islamic Jerusalem....".... However , there is another possibility namely, that the Muslims had nothing to do with this exclusion and that it was an invention of Christian authors or probably added by a Christian source 1 , such as Syriac chronicles Michael the Syrian, and the Christian chronicles Agapius [ Mahbub ] of Manbij , within the context of the traditional conflict between Jews and Christians..... Greek sources indicate that the Christians wanted Aelia to remain a Christian area and this culminated in a clear sign to exclude Jews from there. 2 .... 8

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- 1: Abdul Aziz Duri [ 1989 ] , Jerusalem in the Early Islamic period: 7th – 11th centuries AD" in K.J. Asali ( ed. ) , Jerusalem in History [ Scorpion Publishing, Essex ] , p. 107.
  - 2: Daniel J. Sahas "Patriarch Sophronius, Umar Ibn al-Khattab and the Conquest of Jerusalem" in 'Hadia Dajani Shakeel and Burhan Dajani, Al-Sira' al-Islamic al-Faranji ala Filastin fi al-Qurun al-Wasta' ( The Institute for Palestine Studies, Beirut 1994 ) , p. 67

Furthermore, a letter written by Solomon Ibn Broham al-Qara'i, who lived in the First half of the tenth century CE in Islamic Jerusalem, states that the Jews were allowed to enter and reside in Aelia from "the beginning of Isma'il's dominion" , meaning from the first Muslim conquest of Islamic Jerusalem. 9 Jewish sources also claim that the Jews were allowed to pray in Islamic Jerusalem after the Muslim conquest. 10 Christian sources claim that Jews resided in Islamic Jerusalem immediately after the First Muslim conquest. For example, Bishop Arculf, who visited Islamic Jerusalem as a pilgrim in 670 CE during the Caliphate of Mu'awiya Ibn Sufyan, recounts that

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- 8: Prof. Abd al-Fattah El-Awaisi, "Umars' Assurance of Safety Aman to the People of Aelia ( Islamic Jerusalem ) – A Critical Analytical Study of the Historical Sources" [ Al-Maktoum 2005 ] , pp. 27-29
  - 9: Neubauer, Aus der Peterburger Bibliothek, 109 VII, p. 12 cited by Israel Ben Zeev [ Abu Zuaib ] in "Ka'ab al-Ahbar: Jews and Judaism in the Islamic World" ( Jerusalem 1976 ) , p. 40
  - 10: Moshe Gil, "A History of Palestine: 634-1099" ( Cambridge University Press 1992 ) , p. 71

he found Jews in Islamic Jerusalem. <sup>11</sup> El-Awaisi moreover argues: "...if it is true that Umar excluded the Jews from living in *Aelia*, how could *Salah al-Din* and other Muslim leaders allow them back ?.. " <sup>12</sup> Karen Armstrong argues that "...it should also be noted that by the time of the Crusades al-Quds was known as a city of *Dhimmis*, because Jews and Christians were so populous and successful there. So certainly there was a strong Jewish presence in *Aelia*....." <sup>13</sup>

Al-Duri refutes the condition of excluding Jews from living in *Aelia* in his version of 'Umar's Assurance. He asserts that details prohibiting a certain population from living in a conquered city were unusual and never appear in the texts of similar pacts made in al-SHam. The reference to Jews in the Assurance is apparently absent from all Muslim literature. Al-Duri adds that it is believed this information first appeared in the chronicle of Michael of Syria <sup>1</sup> .....Ibn al-Jawzi does not even refer to the Jews when discussing 'Umar's Assurance in his book, "Dada'il al-Quds [ The Merits of Jerusalem ] . <sup>2</sup> .... It was not the policy of Muslim to prevent *dhimmis* from living in the Muslim state, as all had equal right of residency in Islamic Jerusalem. This leads me to argue that the reason behind this condition was the conflict between Christians and Jews. .... the Romans expelled the Jews from the region of *Aelia* and forbade them to enter the city. <sup>3</sup> This was almost five hundred years before the Muslim conquest. The situation did not improve when Christianity became the official religion of the Roman empire in 312 CE. On the contrary, the regime followed the policy of its predecessors and continued the expulsion of Jews from *Aelia*....The Jews were very keen to go back to *Aelia*, and hoped that the Muslims would conquer *Aelia* and allow them to do so. <sup>4</sup> ..... the Jewish response to the first Muslim conquest was positive, It is possible that some time later, when Christians accepted the reality of Muslim rule in Islamic Jerusalem and that Jews were no longer prevented from living in the region, the Christians felt threatened by this situation and inserted this condition into the Assurance recorded in al-Tabari's version ... <sup>14</sup>

- 1: Duri, 'Abd al-'Aziz. 1990. "Jerusalem in the Early Islamic Period – 7th – 11th Centuries AD" in *Jerusalem in History*, ed. Asali, K.J. New York: Olive Branch Press, p. 107
- 2: Ibn al-Jawzi. 1979. "Dada'il al-Quds". Beirut: Dar al-Afaq al-Jadida , pp.123-24
- 3: Al- 'Arif, 'Arif. 1986. "al-Mufasssal fi Tarikh al-Quds" . Jerusalem. Matba'it al-Ma'arif , p. 68
- 4: Al-Tabari, 1997. "Tarikh al-Umam wa al-Muluk". Beirut: Manshurat Muhammad 'Ali Baydun. Dar al-Kutub al-'Ilmiyyah. Vol. 2, p. 418

### The Expulsion of the Byzantines

In regards to this issue Maher Y. Abu-Munshar writes: "... Al-Tabari's version also stated that the Christians of *Aelia* must expel the Byzantines and thieves from living with them. It was quite natural that 'Umar should think of expelling them from *Aelia*. However, there was an apparent problem in the condition that allowed the Byzantines the option of staying in *Aelia* and paying *jizyah*, or leaving the city altogether. El-Awaisi maintains that 'Umar put Byzantines and robbers in the same category because both were, indeed, thieves. He argues that the Byzantines had occupied and stolen the land of its resources, while robbers had stolen the people's possessions. <sup>15</sup>

- 11: Arculf, "Eines Pilgers Reise nach dem Heiligen Land um 670 aus dem lateinischen ubersetzt und erklart von paul mickley" ( Leipzig, 1917 ) , pp. 29-31 cited by Israel Ben Zeev [ Abu Zuaib ] "Ka'ab al-Ahbar: Jews and Judaism in the Islamic World" ( Jerusalem 1976 ) , p. 38
- 12: Prof. Abd al-Fattah El-Awaisi, "Umars' Assurance of Safety Aman to the People of *Aelia* ( Islamic Jerusalem ) – A Critical Analytical Studay of the Historical Sources" [ Al-Maktoum 2005 ] , p. 33.
- 13: Ibid.
- 14: See: Maher Y. Abu-Munshar : "Islamic Jerusalem and its Christians – A History of Tolerance and Tensions" ( Tauris Academic Studies 2007 ) , pp. 95-97
- 15: Prof. El-Awaisi, Abd al-Fattah. 2005. "Introducing Islamic Jerusalem" . Dundee: Al-Maktoum Institute Academic Press, p. 87

However, this condition appears to contain a contradiction. The beginning of the sentence says that the Byzantines must be expelled, while towards the end they are given the choice of leaving, or of staying and paying the jizyah. El-Awaisi suggests that a deeper understanding of this sentence reveals no contradiction, as it distinguishes between two groups of Byzantines. The First reference is to the Byzantine armed forces and robbers who must be expelled, and the second reference is to Byzantine visitors of the holy places. <sup>16</sup> Al-'Affani argues similarly that the text, or this condition, might have been inserted to distinguish between two groups. First the Byzantine armies or soldiers, who should leave ; second, those who visited the city as pilgrims... <sup>17</sup> ...." <sup>18</sup>

### Date of the Version

El-Awaisi writes: "...The date appearing at the end of Umar's Assurance, namely the year 15 , has undoubtedly been added to the version and not originally part of it. it is well known that the Muslims did not start using the Hijri calendar until the fourth year of the Caliphate of Umar Ibn al-Khattab, which was seventeen years after the Hijra. It is inconceivable, as Zakariyya al-Quda argues, '...that a document before this date should be dated with the Hijri date...' <sup>19</sup> ...." <sup>20</sup>

### Conclusion

Maher Y. Abu-Munshar states:

The statement that Umar granted the people of Aelia safety for "their persons, their possessions and churches" represented the normal terms of the assurances granted by Muslims to all conquered peoples at that time. With the exception of the condition relating to the Jews, the First paragraph of al-Tabari's version is similar to these treaties. Such guarantees reflected the spirit of tolerance shown by the conquering Muslims <sup>1</sup> towards non-Muslim peoples... Because these commitments conformed to the regular practice of a Muslim conqueror, "the essentials" of the document can be treated as authentic. <sup>21</sup>

1: For example. The peace treaty given to the people of Damascus by Khalid Ibn al-Walid in the year 14 AH. See Al-Baladhuri, 1987. "Futuh al-Buldan. Beirut: Mu'assasat al-Ma'arif, p. 166. Another example is the peace treaty given to the people of al-Jazirah by 'Ayyad Ibn Ghanam in 17 Ah. See Abu 'Ubayd, al-Qasim Ibn Sallam. 1986. "kitab al-Amwal". Beirut: Dar al-Kutub al-'Ilmiyyah , p. 220

<sup>16</sup>: Ibid. , p. 77-78

<sup>17</sup>: Al-'Affani, S. 2001. "Takhdir al-Nafs bi Hadith al-Quds ( wa Qudsah )" Cairo: Maktabit Mu'ath Ibn Jabal. Vol. 1, p. 197

<sup>18</sup>: See: Maher Y. Abu-Munshar : "Islamic Jerusalem and its Christians – A History of Tolerance and Tensions" ( Tauris Academic Studies 2007 ) , pp. 97-98

<sup>19</sup>: Al-Quda, Zakariyya ( 1987 ) , "Mu'ahadit Fatih Bayt al-Maqdis: al-Uhda al-Umarriya" in Muhammad Adnan al-Bakhit and Abass, Ihsan ( eds. ) , Bilad al-Sham fi Sadir al-Islam, ( University of Jordan and University of Yarmuk, Jordan ) , Vol. 2 , p. 276

<sup>20</sup>: Prof. Abd al-Fattah El-Awaisi, "Umars' Assurance of Safety Aman to the People of Aelia ( Islamic Jerusalem ) – A Critical Analytical Studay of the Historical Sources" [ Al-Maktoum 2005 ] , p. 38.

<sup>21</sup>: See: Maher Y. Abu-Munshar : "Islamic Jerusalem and its Christians – A History of Tolerance and Tensions" ( Tauris Academic Studies 2007 ) , p. 94

Prof. El-Awaisi concludes:

In conclusion, the author is inclined to believe that there is no doubt that an Assurance of safety existed and that Umar Ibn al-Khattab granted the people of Aelia an Assurance of safety *Aman* for themselves, their possessions, their churches, and their religion, in return for their paying Jizya tax. This was in line with the general trend of the Muslim attitude to other areas in Syria or concluded with the People of the Book during the period of Muslim conquests. As for the additions and restrictions attributed to Umar Ibn al-Khattab, these are the products of later historical periods, resulting from socio-political circumstances that differed greatly from the time of the First Muslim conquest of Islamic Jerusalem. <sup>22</sup>

### Appendix: Special Assurance of Safety to the Jews

El-Awaisi states that a unique early Muslim account confirms that Umar Ibn al-Khattab granted the Jews from Aelia a special Assurance of safety. Hani Abu al-Rub brings to us a very interesting reading of the early Muslim sources when he states that "...Al-Ya'qubi pointed out indirectly within his writings that there was an agreement with the Jews. This has been confirmed by al-Waqidi.." <sup>23</sup> Indeed, this is a very unique account which Abu al-Rub quotes from Alla' al-Din Ali al-Burhan Fawaz. According to this account, al-Waqidi has stated that "...twenty Jewish individuals from Bayt al-Maqdis headed by Joseph Ibn Nun visited Umar in al-Jabiya where they requested an Assurance of safety. He [ Umar ] granted them an Assurance of safety in return for paying the Jizya tax.." Abu al-Rub argues that this assurance "...could be predicting to be a model for how the Jewish minority was to be treated in the whole of Palestine..." <sup>24</sup> This assurance of safety reads:

In the name of God, the most Merciful, the most Compassionate. You are granted safety for your lives, possessions, and churches unless you cause public harm or protect who cause public harm. Any one of you who cause public harm or protect who causes public harm then he will not be under covenant of God. I am distance myself from any action committed by the [ Muslim ] army during the military operation [ 13-16 AH ]. The persons who attest to this are Mu'ath Ibn Jabal, Abu Ubayda & Ubai Ibn Ka'b <sup>25</sup>

Another scholar, from a more classical theological school of thought in studying history, refers to an account related by al-Baladhuri , who states that "...Abu Ubayda made *Sullh* peace with the *Sammrits* in Jordan and Palestine.." <sup>26</sup> This means that the Muslim conquerors granted the second Assurance of safety to the Jews of Aelia but this time to the *Sammrits* living in the north of Aelia, in particular in Nablus. Abd Allah al-Sharif argues that "...the Muslim conquerors made peace with the Jews of al-Sham on the same bases as with the Christians except the *Sammrits* in Jordan and Palestine which have a special *Sullh* with them..." <sup>27</sup> Moreover, he adds that

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<sup>22</sup>: Prof. Abd al-Fattah El-Awaisi, "Umars' Assurance of Safety Aman to the People of Aelia ( Islamic Jerusalem ) – A Critical Analytical Study of the Historical Sources" [ Al-Maktoum 2005 ], pp. 52-53.

<sup>23</sup>: Hani Abu al-Rub, "Tarikh Filastin fi sadr al-Islam" [ Jerusalem 2002 ], p. 139

<sup>24</sup>: Ibid. , p. 214

<sup>25</sup>: Ibid. , p. 139, p. 214

<sup>26</sup>: Abd Allah al-Sharif , "Mawfiq Yahud al-Sham min al-Fatih al-Islami" [ Shawwal 1424 AH ] , Vol. 16 No. 28 , p. 513

<sup>27</sup>: Ibid. , p. 513

al-Baladhuri related another account which stated that “.. the Jews [ in al-Sham ] were to the Christians as *Dhimmi* paying *Kharaj* tax to them. The Jews, therefore, entered into the *Sullh* with them [ Christians ] ...” <sup>28</sup> In other words, what had been applied to the Christians applied also to the Jews. This means that the Jews in al-Sham reached a *Sullh* with the Muslim conquerors through the *Sullh* with the Christians. Indeed, the Jews were insignificant in number ; they were a very small minority during the First Muslim conquest. In short, as the region witnessed centuries of conflicts and exclusive attitudes to addressing competing political and religious claims, these crucial arrangements and changes were necessary and essential steps to provide a conflict resolution. They also affirmed the inclusive vision of Islamic Jerusalem, namely to lead to the establishing of peace and stability in the region. Indeed, Umar’s Assurance of Safety to the people of Aelia lay down the foundation Stone for the conflict resolution, re-shaping a new agenda for the developing relationships between the followers of *all the religious and cultural communities* of the Aelia region <sup>29</sup>

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28: Ibid. , p. 514.

29: See: Prof. Abd al-Fattah El-Awaisi, “Umars’ Assurance of Safety Aman to the People of Aelia ( Islamic Jerusalem ) – A Critical Analytical Studay of the Historical Sources” [ Al-Maktoum 2005 ] , pp. 35-37.