

Conversion, Exemption, and Manipulation: Social Benefits and Conversion to Islam in Late Antiquity and the Middle Ages

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The choice of individuals and groups to embrace Islam in the first few centuries after its emergence is rightfully considered an act that was charged with spiritual meaning. At the same time, however, the act also brought with it dramatic implications for the configuration of communities whose social and political structures were dictated by theological ideologies, scriptural traditions and memories of primordial pasts. In this essay, I wish to focus on the social aspects of conversion to Islam, particularly on how shifts in confessional affiliation were prompted by social concerns. Once they entered into the Islamic fold, the new converts were able to enjoy a variety of benefits and exemptions from burdens that had been imposed on them as non-Muslims. Yet conversion to Islam did not only offer exemption from taxes or liberation from slavery. In the final part of this essay, I attempt to show that conversion to Islam, or even its mere prospect, could be used for obtaining various favours in the course of negotiations for social improvement. An ecclesiastical authorization to divorce without legal justification, the release of a Jewish widow from her levirate bonds, and the evasion of penal sanctions are examples of some of the exemptions that were sought out or issued in response to conversion to Islam. In the period under discussion, in the context of a social setting that was founded on confessional affiliation, conversion to Islam signalled a social opportunity that was at times manipulated by individuals for the sake of improving their personal status.

Keywords: Islam; ahl a-dhimma; conversion; jizya, slavery; mawlā; marriage; law; Jews; Christians

For members of the non-Muslim communities who fell under Islamic rule from the seventh century CE, conversion to Islam offered an improvement of legal status, economic benefits, and a new communal solidarity.¹ Even the mere prospect of conversion to Islam could be advantageous if properly negotiated, or manipulated. This paper focuses on the various exemptions and benefits that could have been obtained by conversion to Islam during the early and formative centuries of Islamic rule by considering literary testimonies from diverse chronological, geographical, and communal provenances. The first two parts of the following discussion summarize some of the cases better known to modern scholarship about con-

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1 I concede that conversion to Islam may mean different things and was achieved in different ways; for a recent discussion on the conceptual problems stemming from incautious usage of conversion as an act denoting a shift in spiritual alliances, see Szpiech, *Conversion and Narrative*, 9–27.

version and exemption in relation to taxation and slavery. The third part seeks to highlight moments in which the act of conversion to Islam – or in most cases, the mere prospect of conversion – was utilized as a means of gaining benefits and exemptions. The cases presented indicate that these social gains were often obtained in a manner that did not conform to contemporary legal principles.

Confessional communities as social systems

Shortly after his arrival in the Arabian town of Yathrib in 622, Muhammad signed an agreement, a pact, or a constitution with the town's local inhabitants, known in modern scholarship as the Constitution of Medina.² The document that was issued by the Prophet and accepted by his followers lists a series of clauses that were to constitute the normative principles of the new Community of Believers (*Umma*). These outlined the ideological boundaries between those within and outside of the Community, a series of rudimentary rules that were to be incumbent upon its members, and points of social solidarity among them. The validity and fulfilment of the document is guaranteed by divine power and its human agent: »Whatever matters you disagree on should be referred to God and to Muhammad [that is, for resolution].«³

The Constitution of Medina was innovative in the sense that it assembled the first Muslims around social principles that stemmed from their new spiritual convictions. The kinship and blood allegiances that constituted the foundations of Arabian tribal solidarities were to be gradually replaced by the belief in Allah and an acknowledgment of His Messenger. Accordingly, a simple utterance of faith that there is no God but Allah and that Muhammad is His Messenger would indicate a powerful moment in which the individual not only committed himself or herself to a new God, but also forged a social alliance with his or her new confessional associates.⁴

While the emergence of a Community of Believers was likely to have signalled nothing less than a revolution in the meaning of communal membership for the pagan-worshipping tribes of Arabia, we should anticipate that some of their Jewish and Christian neighbours would have reacted to the concept of a monotheistic community with indifference, if not scorn.⁵ For centuries prior to Muhammad's prophetic career, Christian and Jews throughout the Near East and beyond were accustomed to abiding by social rules and norms that were dictated by their confessional affiliation. For, as Peter Brown taught us not so long ago, in the »new culture« of Late Antiquity »a man was defined by his religion alone.«⁶ Much of that man's daily routines – his choice of spouse, the manner in which he raised his children, his diet,

2 Two versions are extant. The first in Muhammad's biography, the *sīra* by Ibn Ishāq (d. c. 767-768) which was redacted by Ibn Hishām (d. c. 833-834); the second in Abū 'Ubayd's (d. 838-839) legal treatise, *Kitāb al-amwāl*. About the document, see Lecker, »Constitution of Medina«.

3 Translation based on the text preserved by Ibn Hishām in Donner, *Muhammad and the Believers*, 230.

4 The term »confessional«, rather than »religious« has been given preference throughout the following discussion, since religion does not adequately represent the communal distinctions of Judaism in Islam, as opposed to Christianity. See Asad, *Genealogies of Religion*, 27-54; and recently, Becker, *Martyrdom, Religious Difference, and »Fear«*, 301-304.

5 On the cultic composition of the Arabian Peninsula prior to Islam, see Hoyland, *Arabia and the Arabs*, ch. 6.

6 Brown, *World of Late Antiquity*, 186.

his moments of rest and labour, and above all, his willingness to obey his communal leaders – were all motivated by the contents of divine messages that were codified in sacred texts. As a consequence, spiritual allegiances bore social consequences, as did the breakup of these allegiances and the formation of new ones.

The social implications of conversion to Islam

It is within the social context of confessional communities that commitments among community members, and between members and their communities, could be broken by a shift in confessional alliance, that is to say, by conversion. This was not an act to be taken lightly from the perspectives of both the convert and their original community. For the latter it meant far more than a loss of one of its members; it marked a terrible violation of the contract between man and God and thus constituted a supreme act of offense. Accordingly, believers, including family members, were exhorted to sever all ties with the apostate, and reject his company, their offering, and their legal standing.⁷ At the same time, while a person's decision to embrace a new confession and renounce their old one may have been fraught with serious spiritual connotations, there would also be crucial social implications vis-à-vis both their former and new confessional community.

The history of Islam in Late Antiquity and the Middle Ages is, to a large extent, a process of changes that were instigated by the choice of individuals and groups to join the Muslim ranks.⁸ It is a process that has attracted the interest of modern scholars who have been primarily preoccupied with questions as to when conversions to Islam took place, how many people converted in a given period, and why they chose to do so.⁹ Early in the twentieth century, scholars such as C. H. Becker considered conversion to Islam to have been principally motivated by economic considerations.¹⁰ This understanding was later revised, following Daniel Dennett's study on the poll tax (*jizya*) in the 1950s.¹¹ Dennett convincingly showed that discriminatory taxes on non-Muslims were neither imposed consistently, nor uniformly conceived from the onset of Islamic rule. Thus, while acknowledging the role of economic growth in confessional change, Marshall Hodgson pointed to the great social advantages that were to be gained by conversion to Islam, underscoring the social mobility that went hand in hand with the new affiliation.¹² In general, historians have come to the understanding that the phenomenon of conversion to Islam cannot be treated from a singular perspective.¹³

However, the nature of the process of conversion itself has remained less clear. In particular, modern scholars have paid little if any attention to questions pertaining to the daily dilemmas and social implications that were prompted by conversion to Islam: the duration of the act itself (whether the individual converted immediately or over an extended period of

7 See Simonsohn, »Halting between Two Opinions«; idem, Communal Membership Despite Religious Exogamy.

8 See Tannous, *Syria Between Byzantium and Islam*.

9 For a summary of this scholarship, see Morony, *Age of Conversions*.

10 Becker, *Islamstudien*, vol. 1, 153-155.

11 Dennett, *Conversion and the Poll Tax*, esp. 32-33, 48, 87.

12 Hodgson, *Venture of Islam*, vol. 1, 301, 304-305.

13 For up-to-date studies, see Hoyland, *Seeing Islam*, 336-342; El-Leithy, *Coptic Culture*, vol. 1, 3-5, 35-44; Papaconstantinou, *Between Umma and Dhimma*, 151; Foss, *Egypt under Mu'awiya*, 13; Bulliet, *Cotton, Climate, and Camels*; Humphreys, *Christian Communities*, 54-55; Wasserstein, *Conversion*; Simonsohn, *Conversion to Islam*.

time); the reaction of the convert's former and new confessional associates; and the impact of the act on the convert's social commitments. Only recently has research into conversion reflected a shift in concerns, and accordingly produced studies which show greater sensitivity to the different meanings of early conversion to Islam, thus yielding nuanced observations as to the nature of the process leading to it.¹⁴ One central trend these studies mention is the act of conversion to Islam followed by reversion, that is, a change of heart and a return to the original creed.¹⁵

This trend reflects not only the progressive nature of conversion to Islam, but also its often opportunistic nature. Conversion to Islam occasioned a series of potential social and material benefits such as – depending on the convert's circumstances – avoiding the payment of the poll-tax, securing state employment, emancipation from slavery or from a state of war imprisonment, receiving an inheritance, and even marriage. An acknowledgment of the inti-

Conversion and exemption: the poll-tax

According to Muslim law, the *jizya* or poll-tax was to be levied on non-Muslims of *dhimmi*, i.e. protected status.¹⁹ Its nature in the first few centuries of Islamic rule has been a cause of much scholarly discussion and debate. This is due to the fact that our information about it derives primarily from sources written in the Abbasid era of the later eighth and ninth centuries CE; the fact that initially it was not uniform throughout Islamic dominated lands; and that it did not replace earlier systems of taxation, which themselves appear to have been diverse and are poorly understood.²⁰ Modern scholars had initially identified the momentous stage of mass conversions to Islam as taking place relatively shortly after the Muslim conquest, that is, about a century later, in response to the burdensome poll-tax.²¹ These estimates were later revisited, and accordingly the period of this tipping-point has been gradually pushed forward. Be that as it may, the economic hardships that were caused by taxation are still considered a significant motive for conversion to Islam. And, indeed, in principle, conversion to Islam did mean exemption from the poll-tax. Yet given the unclear image we possess of the early Islamic taxation system, together with indications that at least in the seventh and first half of the eighth centuries such an exemption was not always granted, drawing a direct line between conversion and tax exemption appears to be overly simplistic.

Early collections of the poll-tax on non-Muslims are certainly well attested in seventh-century sources.²² These sources often refer to the close link between taxation and conversion. Thus, for example, in a letter written in the mid-seventh century by the East Syrian Catholicos Išō'yahb III (r. 649-659) to Simeon the Metropolitan of Rev Ardashir, the Catholicos laments the fact that members of Simeon's congregation »became captivated by the love of half of their property,« and hence »the She'ol of apostasy has suddenly swallowed them ...«²³ Išō'yahb expressed his astonishment, since »the Arabs did not force them to abandon their faith but only told them to abandon half of their possessions and to hold on to their faith.« Yet those Christians chose to »abandon their faith ... and held on to half of their possessions ...«.²⁴

19 See Fattal, *Le statut légal des non-musulmans*, 264-291.

20 See Cahen *et al.*, *Djizya*; On the use of *jizya* in the early period, see Dennett, *Conversion and the Poll Tax*, 12-13; Løkkegaard, *Islamic Taxation in the Classic Period*, 131-132; Morimoto, *Fiscal Administration of Egypt*, 53-62; Sijpesteijn, *Shaping a Muslim State*, 177. cf. the ambiguity of Greek and Arabic taxation terms in Papaconstantinou, *Administering the Early Islamic Empire*, 63.

21 E.g. von Kremer, *Culturgeschichte des Orients*, vol. 1, 172.

22 See Crone, *Slaves on Horses*, 215, n. 107; Hoyland, *Seeing Islam*, 194 (according to Hoyland canon 19 of the East Syrian synod of 676 is the earliest literary reference to the Islamic poll-tax); *ibid.*, n. 73; Robinson, *Neck-Sealing in Early Islam*.

23 Penn, *When Christians First Met Muslims*, 35.

24 Penn, *When Christians First Met Muslims*, 36.

Around the same time the narrative of the treatise known as *The Apocalypse of Pseudo-Methodius* provides further allusion to the link between material hardships and apostasy.²⁵ The »Sons of Ishmael«, as they arrive from the South, will seize:

... the merchants' commerce, the farmers' work, the wealthy's inheritance, the holy ones' gifts of gold, silver, bronze, and iron, clothing, all their glorious vessels, adornment, food, confections, and everything desirable and luxurious ... They will become so arrogant in their rage and boasting that they will demand tribute from the dead lying in the dust. They will take the poll-tax from the orphans, widows, and holy men.²⁶

In consequence to these chastisements and many others, »[Only] a few of the many who are Christians will remain [Christians] ... Many who were Sons of the Church will deny the Christians' true faith, the holy cross, and the glorious mysteries. Without compulsion, lashing, or blows, they will deny Christ and make themselves the equivalent of the unbelievers.«²⁷

Historiographic accounts from the early Abbasid period (i.e. post 750) suggest that by the time of the caliph 'Umar ibn 'Abd al-'Azīz (r. 717-720), the formula of conversion in return of exemption was complete. These accounts either quote or refer to Caliph 'Umar's fiscal rescript to his governors, in which he gave the following instruction:

Wherefore, whosoever accepts Islam, whether Christian or Jew or Magian, of those who are now subject to the *jizya* and who joins himself to the body of the Muslims in their abode (*dār*), and who forsakes his abode wherein he was before, he shall enjoy all the privileges of the Muslims ...²⁸

This rescript is recorded in 'Umar's biography (*sīra*), which was written about a century later by the Egyptian historian 'Abdallāh ibn 'Abd al-Ḥakam (d. 829) and made available by his son Muḥammad (d. 882).

Recent scholarship, specifically that of Luke Yarbrough, has however expressed substantial reservations regarding the reliability of 'Umar's biography. Yarbrough argues that the policy attributed to 'Umar II should be read in the context of an Abbasid endeavour to cast the literary figure of the Umayyad caliph into a plot that was to serve Abbasid concerns.²⁹ Admittedly, Yarbrough's focus is on those parts of 'Umar's biography that mention a rescript concerning the employment of non-Muslims in the Islamic administration, so the fiscal rescript could still be authentic. The decree finds further support in non-Muslim accounts, among them *The History of the Patriarchs of the Coptic Church of Alexandria*, where 'Umar is depicted as having ordered that »the poll-tax should be taken from all men who would not

25 Believed to have been composed in North Mesopotamia by a Chalcedonian or a Miaphysite author around 690; see Hoyland, *Seeing Islam*, 264; cf. for an earlier dating of the text, Shoemaker, »The Reign of God Has Come«, 543, n. 83.

26 Penn, *When Christians First Met Muslims*, 120. A Greek translation was made shortly after the Syriac original; see Pseudo-Methodius, *Apocalypse*, ed./trans. Garstad.

27 Penn, *When Christians First Met Muslims*, 122.

28 Ibn 'Abd al-Ḥakam, *Sīrat 'Umar*, ed. 'Abīd, 84; English trans. Gibb, Fiscal Rescript of 'Umar, 3.

29 Yarbrough, Did 'Umar b. 'Abd al-'Azīz Issue an Edict, 198. See also Hawting, *First Dynasty*, 78.

become Muslims.«³⁰ Yet it seems that even after 'Umar's alleged rescript, irregularities persisted. According to Petra Sijpesteijn, Muslim officials who suspected the sincerity of recent converts, namely that they had converted only to free themselves from the poll-tax, forced these converts to continue paying the tax.³¹

The policy appears to have taken a much clearer and more consistent form under early Abbasid rule. Completed in the second half of the eighth century, in a monastery in northern Mesopotamia, the Syriac *Chronicle of Zuqnin* reports the heavy burden caused by the poll-tax around the year 770. Its author further notes that »[d]uring the [early] Arab rule the tribute did not weigh so heavily upon the Christians that it went beyond their endurance,« yet now »evils of harsh extortions suddenly broke out against them ... [thus] the door to paganism opened for them.«³² This link between the burden of the poll-tax and conversion to Islam received growing attention from Muslim and non-Muslim historians who wrote during and about the Abbasid period.³³ Once again, The *History of the Patriarchs of the Coptic Church of Alexandria* reports that the first Abbasid caliph, al-Saffāḥ (r. 749-754) ordered a sweeping exemption of converts to Islam from the poll-tax.³⁴ And according to the *Continuatio of the Samaritan Chronicle* of Abū al-Faṭḥ (composed c. 1356), during the time of caliph al-Mutawakkil (r. 847-861) the poll-tax was a cause of mass conversion.³⁵

Indeed, the Umayyad caliphs of the seventh and early eighth centuries would have found it difficult to cope with declines in income that were likely to have resulted from exempting former non-Muslims from the poll-tax.³⁶ In the early Abbasid period, however, taxation assumed importance, not only as a source of state income, but also as a means of confessional differentiation.³⁷ Late eighth-century efforts of Muslim jurists to formulate principles regulating Muslim/non-Muslim relations coincided with and often completed those pertaining to taxation. Thus, early versions of the Pact of 'Umar not only showed up around this time, but were integrated in legal treatises such as Abū Yūsuf's (d. 798) *Kitāb al-kharāj* (The Book of Taxation).

30 *History of the Patriarchs*, ed./trans. Evetts, 72. Similar accounts, all stemming, according to Robert Hoyland (*Seeing Islam*, Excurses C), from the *Syriac Common Sources*, i.e. the chronicle of Theophilus of Edessa (d. 775) are found in, Theophanes Confessor, *Chronicle*, trans. Mango and Scott 399; Agapius of Manbij, *Kitāb al-'unwān*, 502-503; Michael the Syrian, *Chronicle* 2, ed./trans. Chabot, 11.XIX, 456/488-489.

31 Sijpesteijn, *Shaping a Muslim State*, 193. See also Simonsen, *Studies in the Genesis*, 141-150; Hoyland, *Seeing Islam*, 340.

32 *Chronicle of Zuqnin*, 321.

33 Lev, *Coptic Rebellions*, 327.

34 *History of the Patriarchs*, ed./trans. Evetts, 443.

35 Levy-Rubin, *New Evidence*, 269.

36 Crone, *Slaves on Horses*, 52; Hawting, *First Dynasty of Islam*, 79; Sijpesteijn, *Shaping a Muslim State*, 183; Crone, *Nativist Prophets*, 13.

37 A clear link between taxation and religious hierarchy is made in the different interpretations of Qur'ān 9:29, referring to the payment of the poll-tax by non-Muslims in a state of *ṣaghār* (humility), see Cahen, *Coran* IX-29; Kister, « 'An Yadin »; Bravmann, *Ancient Arab Background*; Rubin, *Quran and tafsīr*; see also the summary of these opinions in Cohen, *Under Crescent and Cross*, 224, n. 26; Ibn Warraq, *What the Koran Really Says*, 343-386.

Questions of systemization and consistency aside, it seems safe to assert that for many, the poll-tax, both in its early and later manifestations, would have constituted a sufficient impetus for conversion to Islam. As judiciously observed by S.D. Goitein, given the large scale »of poverty and privation experienced by the masses« of medieval Near Eastern societies, »the payment of the poll-tax constituted item number one in the budget of families with modest income ...«³⁸ Under these circumstances, embracing Islam posed an appealing and viable alternative.³⁹

Conversion and exemption: slavery

A common understanding in modern scholarship is that many among the early converts to Islam were motivated by aspirations for social mobility, in particular, in order to escape slavery and captive status.⁴⁰ The oft-recounted stories about Rayḥāna bint Shamʿūn and Ṣafiyya bint Ḥuyayy exemplify the opportunities afforded by conversion to Islam. Both were Jewish captives who converted to Islam and were subsequently manumitted and married to the Prophet.⁴¹ Echoes of this dynamic are attested too in a question posed to the Byzantine Orthodox abbot of St. Catherine monastery, Anastasios of Sinai (d. c. 700), concerning »women who go astray while they are also slaves in captivity.«⁴² It is under such circumstances that marriage with Muslims and conversion to Islam constituted a useful means of manumission for slave girls.⁴³

It should be noted that in principle, according to Islamic law, the only two types of recognized slavery are by birth or consequent to captivity, thus rendering conversion to Islam immaterial to non-Muslim slaves.⁴⁴ At the same time, a *dhimmī* may not own a Muslim slave and if he does he should strive to sell that slave, give him away to a Muslim owner, or release him.⁴⁵ We should, therefore, wonder whether among those who chose to join the Muslim ranks there were slaves who were motivated by the hope of manumission. Here, again, as in the case of the poll-tax, the evidence is not clear and unanimous. The question is further complicated by the fact that during the Umayyad period the conversion of a non-Arab to Islam entailed the acquisition of the status of a client (or *mawlā*) – a legal practice which rendered the new Muslim a dependent of an old Muslim, most likely of Arabian descent, through a bond of rights and obligations.⁴⁶ While the convert *mawlā* would now enjoy equal rights to

38 Goitein, *Evidence on the Muslim Poll Tax*, 279.

39 Cf. Wasserstein, *Conversion*, 203: »the economic weight of the tax ... seems rarely to have been so high as to encourage conversion as a way out of paying it.«

40 Bulliet, *Conversion to Islam*, 41; Fiey, *Conversions à l'Islam*, 13.

41 Ibn Sa'd, *Kitāb al-ṭabaqāt* 10, ed. 'Umar, 116, 125; al-Wāqidi, *al-Maghāzī* 2, 520; discussed in Stern, *First Women Converts*, 297; Spector, *Women of the People of the Book*, 272; Friedmann, *Tolerance and Coercion in Islam*, 183-184.

42 Anastasios of Sinai, *Questions and Answers*, 191 (question 76); on this collection, see Haldon, *Works of Anastasios*.

43 See Lecker, *Jewish Reaction*, 179-180.

44 Brunschvig, *Abd.*

45 Fattal, *Le statut légal des non-musulmans*, 149.

46 Wensinck and Crone, *Mawlā*; Crone, *Roman, Provincial and Islamic Law*, 36; cf. cases in which non-Muslim slaves attained *mawlā* status without converting to Islam, in Crone, *Slaves on Horses*, 237, n. 358; Onimus, *Les mawālī en Égypte*, 84.

other Muslims, he would remain socially inferior to them, given his dependence on his patron.⁴⁷ According to Richard Bulliet, this state of affairs did not necessarily take away from the motivation of those who were socially inferior to begin with, e.g. »prisoners of war, who might thereby escape slavery, and people of very low social status who had no social status to lose.«⁴⁸ His point gains support from Patricia Crone's view, according to which slaves who converted to Islam would often gain manumission.⁴⁹

Precedents from the time of the Prophet may have facilitated instances of manumission of non-Muslim slaves who had converted to Islam. Elizabeth Urban has analysed the conversion story of Abū Bakra, who was manumitted along with others by Muhammad during the siege of al-Ṭā'if in 630.⁵⁰ Urban argues that the case of Abū Bakra exemplifies an instance in which a non-Muslim slave not only attained manumission following his conversion to Islam, but also did not become a *mawlā*⁵¹. Instead, Abū Bakra was considered a *ṭaliq allāh* – a freedman whose »freedom was inextricable from his conversion to Islam.«⁵² Urban ties this concept to the use of the term *ṭaliq allāh* in a panegyric written by an Abbasid poet which was dedicated to the caliph al-Mahdī (r. 775-785).⁵³ In the poem, the caliph is the manumitter of »the one set loose by God«, thus rendering the Community of Believers responsible for the social welfare of the former slave, rather than the latter becoming the *mawlā* of a patron. It is, then, the slave's conversion to Islam, Urban concludes, which endows him with complete manumission.⁵⁴

Urban suggests that this type of manumission, issued in exchange for conversion, gradually disappeared in the post-conquest period.⁵⁵ Moreover, the idea that manumission was attained when conversion was channelled through *walā'* (clienthood), has been met with reservation. According to an alternative understanding, the institution of the *walā'* did not so much lead slaves into Muslim society, as it changed their legal status, keeping their enslavement in place.⁵⁶ The example of the martyr George the Black (d. c. 660s) is a case in point. The figure of George appears in the *Narrationes* of the aforementioned Abbot Anastasius of Sinai. Born Christian and taken captive by a Muslim from Damascus during the time of the conquests in the 640s, George converted to Islam as a child, yet appears to have remained in servitude before reverting to Christianity and eventually being executed.⁵⁷

47 Savant, *New Muslims of Post-Conquest Iran*, 68; on aspects on non-Arab converts' social inferiority, see Crone, *Nativist Prophets*, 9.

48 Bulliet, *Conversion to Islam*, 52.

49 Crone, *Nativist Prophets*, 8.

50 Urban, *Early Islamic Mawālī*, ch. 2. Versions of the account show in Ibn Sa'd, *Kitāb al-ṭabaqāt*, 9, ed. 'Umar, 15; Ibn 'Asākir, *Ta'rikh madīnat Dimashq* 62, ed. Gharāma al-'Amrawī, 212-213; Ibn Qayyim, *Zād al-ma'ād* 3, ed. 'Abd al-Ra'ūf Sa'd, 366.

51 Urban, *Early Islamic Mawālī*, 46.

52 Urban, *Early Islamic Mawālī*, 54.

53 Urban, *Early Islamic Mawālī*, 55. The poem is attributed to the court poet Marwān b. Abi Ḥafṣa (d. 797); see Marwān b. Abi Ḥafṣa, *Shi'r*, ed. 'Aṭwān, 95.

54 Urban, *Early Islamic Mawālī*, 56.

55 Urban, *Early Islamic Mawālī*, 47.

56 Hallaq, *Use and Abuse*, 83. See also Lewis, *Race and Slavery in the Middle East*, 9.

57 Binggeli, *Anastase le Sinaïte*, 252, 567. For discussion, see Flusin, *Démons et Sarrasins*, 387ff; Hoyland, *Seeing Islam*, 100, 351-352; Tannous, *Syria Between Byzantium and Islam*, 448-449; Papaconstantinou, *Saints and Saracens*, 326; Sahrer, *Christian Martyrs*, 86-87.

The case of George the Black should also be noted in relation to the question of captivity. As noted above, slavery went hand in hand with captivity and accordingly, it has been argued that a great many non-Muslims who were taken in captivity during the early Muslim campaigns became slaves, later converted to Islam, and were finally manumitted.⁵⁸ The considerable quantity and social significance of non-Muslim captives among Muslims is reflected in early and medieval Islamic historiographic accounts and legal deliberations.⁵⁹ The latter suggest that Muslim jurists were particularly preoccupied with the question as to whether captives were to be put to death, used to ransom Muslim captives, or given their freedom.⁶⁰ And while most authorities appear to have been in favour of the conversion of polytheist captives, attitudes towards monotheists appear to have been ambivalent. While some advocated for their forced conversion, including some who maintained that their conversion prevented execution, but rendered them slaves, others, like the Qur'ān's commentator Mujāhid ibn Jabr (d. 718-722),⁶¹ opted for a formula according to which conversion entailed freedom.⁶²

Another means of manumission from slavery following captivity was to embrace Islam and join its military. The case of Persian soldiers who were taken captive in the battle of Qādisiyya in 636, converted to Islam, and joined the Muslim army, offers a glimpse into a dynamic in which integration within the ranks of Muslim combatants promised social freedom.⁶³ The scale of the phenomenon is difficult to measure. What seems safe to surmise is that in certain instances conversion to Islam meant a release from the slave status of non-Muslim prisoners of war. Thus, among the biographies studied by Bulliet we find one about Muḥammad ibn 'Iṣām ibn Yazīd ibn 'Ajlān from Isfahan, whose grandfather had been taken captive by the Muslims following the battle led by Abū Mūsā al-Ash'arī (d. 666) against the Daylams in c. 640. Once converted to Islam and consequently settled among the Muslims of Kufa, it appears the grandfather enjoyed full manumission, as years later he returned to his homeland and to his estate.⁶⁴

In the medieval eastern Mediterranean, the presence of slaves is well-attested, especially as soldiers and domestic servants.⁶⁵ While slaves known as *mamlūks* were brought up as Muslims in order to become loyal combatants in the service of Muslim rulers, domestic slaves could be found converting to Islam in order to be liberated from their non-Muslim masters, or even to gain full manumission.⁶⁶ A legal opinion of the Baghdadi legal scholar Aḥmad ibn Ḥanbal (d. 855) illustrates this latter scenario.⁶⁷ Ibn Ḥanbal was asked by his son about the fate of a slave whose Christian master had stipulated in his will that he should serve

58 Crone, *Slaves on Horses*, 50; idem, *Early Islamic World*, 314; idem, *Nativist Prophets*, 7-11.

59 See Crone, *Nativist Prophets*, 8-9; Friedmann, *Tolerance and Coercion in Islam*, 115-120.

60 Friedmann, *Tolerance and Coercion in Islam*, 118.

61 See Rippin, *Mudjāhid b. Djabr al-Makkī*.

62 For summary, see Friedmann, *Tolerance and Coercion in Islam*, 118-119.

63 Morony, *Effects of the Muslim Conquest*, 50-51; al-Qāḍī, *Non-Muslims in the Muslim Conquest Army*, 94-95.

64 Bulliet, *Conversion Stories in Early Islam*, 126.

65 See Lewis, *Race and Slavery in the Middle East*, ch. 9; Goitein, *Mediterranean Society*, vol. 1, 130-147; Perry, *Historicizing Slavery*.

66 Perry, *Daily Life of Slaves*, 181.

67 Ibn Ḥanbal's opinions were assembled in the *Kitāb al-jāmi' al-kabīr* of the Baghdadi scholar Abū Bakr al-Khallāl (d. 923). See Laoust, *al-Khallāl*.

the church for five years (after his, the master's, death) and then be set free. The man died and the slave served the church for a year, but then converted to Islam. In reply, Ibn Ḥanbal ruled that the slave was free and should be paid a wage for the remainder of his four-year service.⁶⁸ Nonetheless, the sporadic nature of the evidence, augmented by the absence of an explicit injunction to manumit slaves upon conversion to Islam, should not be left unnoted. As a result, we can suppose that it was only under certain circumstances that non-Muslims could resort to conversion to Islam in order to be exempted from slavery.

Conversion and exemption: manipulation

By embracing the faith of their Muslim overlords, non-Muslims were not only submitting to a new set of theological and legal principles, acknowledging the spiritual leadership of an *imām*, and committing to a series of rituals and practices, they were also signing up for a new communal membership. As we have seen, the latter entailed a set of duties and rights, or benefits. These benefits could include exemptions from material burdens, most notably the payment of the poll-tax and slavery. Yet the prospect of conversion to Islam, or the threat of it, if properly manipulated, could in itself provide means for attaining exemptions. Our records show that during the early and medieval Islamic periods people sought exemptions from a variety of mundane obligations and were able to do so in the context of conversion to Islam. These exemptions included manumission from slavery, evasion of penal sanctions, special permission to divorce, and the release from levirate bonds – all sought or acquired by means of the threat of conversion to Islam.

Particularly revealing sources in this respect is a *responsum* (a legal opinion) that echoes some of the principles outlined above regarding slavery and conversion.⁶⁹ It was issued by one of the three supreme Rabbanite legal authorities of the time, the Babylonian Ga'on Rav Naṭronai bar Hilai (fl. 853-61), who was head of the rabbinic academy of Sura in Baghdad. From the *responsum* we learn that a certain Jewish slave threatened to convert, presumably to Islam, unless his master manumitted his son.⁷⁰ The threat to convert was likely to have weighed significantly in the master's decision to free the boy, knowing that otherwise he would be forced to sell the slave to a Muslim owner.⁷¹

We may anticipate that the famous gaonic enactment (a legal ruling) of a rebellious wife (*isha moredet*), allegedly, c. 650-651, stipulating immediate divorce to recalcitrant wives, was issued with a similar motivation in its background, namely, attaining a social benefit. According to this early enactment, a woman who was considered rebellious (*moredet*) should be divorced without delay.⁷² This was an innovation, since according to earlier rabbinic principles (Babylonian Talmud, tractate Ketubot 64a), under such circumstances, divorce would

68 Al-Khallāl, *Ahl al-milal* 2, ed. Ḥamad b. Sulṭān, 428 (no. 992); see also 429 (no. 993).

69 The two other supreme authorities were the Ga'on of the Babylonian academy of Pumbedita and the Ga'on of the Palestinian academy. See Simonsohn, *Common Justice*, ch. 4.

70 Naṭronai bar Hilai, *Responsa of Rav Naṭronai*, ed. Brody, 530-533, nos. 359-360. I wish to thank Moshe Yagur for drawing my attention to this *responsum*.

71 Mann, *Responsa of the Babylonian Geonim*, 147.

72 The term 'rebellious wife' (*isha moredet*) refers to a woman who refuses to have intercourse with her husband or, alternatively, a woman who refuses to perform domestic labour. The refusal can legally be seen as a sign of a woman's wish to obtain a bill of divorce.

be postponed for twelve months so that the couple could reach reconciliation. The enactment is reported in the famous *Epistle* and a legal *responsum* that were written by the head of the Babylonian academy of Pumbedita in Baghdad, Rav Sherira Ga'on (fl. 968-1006), and a legal *responsum* attributed to Rav Naṭronai. In his *responsum* Sherira notes that prior to the time of this enactment, Jewish women who sought immediate divorce, following their pronouncement as rebellious, »would attach themselves to the Gentiles,«⁷³ and would thus be granted an immediate divorce. The historical reality to which Sherira referred has been understood in modern scholarship as instances in which Jewish women would turn to Islamic courts in order to obtain an immediate divorce.⁷⁴ Here we should recall that the enactment was issued at a very early moment in Islamic history. This was a time when Muslim armies were still in motion, and when Muslim governments were wrestling with questions of legitimacy and stability, and while an Islamic legal apparatus was very much in its infancy.⁷⁵ The scenario in which Muslim judges would issue bills of divorce for Jewish women in the region where the enactment was promulgated, namely Mesopotamia, seems quite unlikely at this historical moment, all the more so since bills of this type had no validity in Jewish legal eyes.

Modern interpretations tend to dismiss Rav Naṭronai's reference to the enactment, indicating its background in the inclination of rebellious wives to engage in *tarbut ra'a* (literally, »bad ways«).⁷⁶ In a recent study, Simcha Gross has revisited both the dating of the enactment to the 650s and its context.⁷⁷ Gross argues that former assessments of the enactment cannot be supported by any other than Sherira's account and it should in fact be seen as a product of either an earlier or much later time. Gross also challenges the interpretation of Sherira's comment that Jewish women »attached themselves to the Gentiles« as reference to an appeal to Muslims, by referring to Naṭronai's remark. According to Gross the expression *tarbut ra'a* should be understood as licentious behaviour, based on its earlier rabbinic attestations. Yet it can be equally argued that by time of Naṭronai (i.e. the ninth century), *tarbut ra'a* was understood as apostasy, given its attestation in this context in references shortly after Naṭronai's time.⁷⁸ It therefore seems reasonable to argue that whether prior to the beginning of the Muslim conquest or centuries after it, the enactment was motivated by the fact that Jewish women would convert in order to attain immediate divorce from their Jewish husbands.⁷⁹

73 Lewin, *Otsar*, Ketubot, 191-192 (no. 478).

74 Mann, Responsa of the Babylonian Geonim, 122; Libson, *Jewish and Islamic Law*, 111.

75 Schacht, *Introduction to Islamic Law*, ch. 4; Hallaq, *Introduction to Islamic Law*, 39-42.

76 Lewin, *Otsar*, Ketubot, 189 (no. 471); see Brody, Were the Geo'im Legislators? 290; idem, *Geonim of Babylonia*, 62.

77 Gross, When the Jews Greeted Ali, 135-142.

78 In an eleventh-century letter sent Nahray ben Nissim, discussed below: Bodl MS Heb c 13 20, ed. and Hebrew trans. in Gil, *Kingdom of Ishmael*, vol. 4, 237-240 (doc. 673); I wish to thank Avraham Yoskovitch for drawing my attention to this document; and in a *responsum* from Sherira Ga'on: Lewin, *Otsar*, Shabbat, 130 (no. 398).

79 On early Islamic legal principles concerning marriage between Muslims and non-Muslims, see Fattal, *Le statut légal des non-musulmans*, 129-136; Friedmann, *Tolerance and Coercion in Islam*, ch. 5; Tsafir, Attitude of Sunnī Islam, 328-332.

It is with this background in mind that I propose to understand the above gaonic enactment, as responding to a tactic employed by Jewish women converting, or merely threatening to convert, in order to receive an immediate divorce in Jewish courts. Further indication of conversion as a means of annulling matrimonial commitments, this time in a Christian context, is attested in a regulation included in the legal code of the late eighth/early ninth-century East Syrian Catholicos Timothy I (r. 720-823) which he compiled in Baghdad. The regulation permits a man to divorce his wife, with no legal grounds, but merely in response to his threat to apostatize if he is not allowed to divorce his wife.⁸⁰ Leaders of the Eastern Churches were continuously exhorting Christian women against marrying non-Christians, often indicating that intermarriage will eventuate in conversion to Islam. We can thus infer that a Christian man's threat to apostatize could have been deemed sufficient reason to issue a (legally unfounded) authorisation to divorce.⁸¹

Related to the question of matrimonial bonds and the threat of conversion is also a recorded attempt to compromise the principles of the legal arrangement known in Jewish rabbinic law as levirate marriage (*yibbum*). The case is recorded in a letter, found in the Cairo Geniza, that was written by a Jewish judge in Alexandria to Nahray ben Nissim (d. 1098) in Fustāt around 1050.⁸² It mentions a young Jewish widow who insisted that she be given in marriage to one of the single younger brothers of her deceased husband, rather than to one of his married brothers. In response to the court's attempt to impose on her marriage to a married brother, the woman threatened that she would fall into »evil ways« (*tarbut ra'a*), in other words apostatising. The court eventually decided to release the woman from her levirate bonds.⁸³

The prospect of conversion to Islam was not necessarily expressed in the form of threats, but could merely be insinuated in order to prompt favourable actions and desired results. In another letter found in the Geniza that was sent from Alexandria to Nahray ben Nissim in Fustāt, shortly after 1094, a Maghribi Jew by the name of Benaya ben Mūsā complained to the communal leader about the harsh misconduct of the local Alexandrian Jews towards their Maghribi peers.⁸⁴ Benaya refers to an incident in which there was a demand for the payment of taxes from the Muslim authorities, but rather than paying it through the collective fund of the local community, the Maghribis chose to pay their dues directly to the authorities. This was a cause of great strife between the local Alexandrian Jews and the Maghribi Jews. Consequently, the writer suffered various allegations and slanders, whereby his property was confiscated and the same fine was determined against him more than once. Benaya notes that he was on the verge of dying owing to the extent of the animosity against him, and that

80 Sachau, *Syrische Rechtsbücher*, vol. 2, 88-89 (reg. 43). On Timothy's law book in the context of the development of East Syrian civil jurisprudence under Islamic rule, see Simonsohn, Introduction and Formalization of Civil Law.

81 An explicit permission to divorce in the context of apostasy finds no precedence prior to early ninth-century East Syrian legislation. See Weitz, *Syriac Christians*, 213. On the phenomenon of religious exogamy and its treatment in East and West Syrian legal sources, see Simonsohn, Communal Membership Despite Religious Exogamy.

82 Bodl MS Heb c 13 20, ed. and Hebrew trans. in Gil, *Kingdom of Ishmael*, vol. 4, 237-240 (doc. 673); English trans. and discussion in Zinger, *Women, Gender and Law*, 48. On Nahray b. Nissim, see Ackerman-Lieberman, Nahray Ben Nissim. I wish to thank Avraham Yoskovitch for drawing my attention to this document.

83 The expression *latset le-tarbut ra'a* is also attested in the abovementioned *responsum* of Naṭronai Ga'on; see n. 75. On the relaxation of levirate bonds in the context of conversion to Islam, see Simonsohn, Legal and Social Bonds.

84 TS 13 J 23.3, ed. and Hebrew trans. Frenkel, *Compassionate and the Benevolent*, 545-551 (doc. 75).

he almost converted to Islam so that the blame for his action would be placed on the head of his adversaries. He therefore pleaded for the intervention of Nahray in his favour. The case mentioned in the letter is clearly of an internal communal nature. The writer suffered various misdemeanours from members of his community and at some point considered apostatizing as a way out of his difficult state. While the writer indicates that conversion out of Judaism would serve to divert allegations towards those who had harmed him, we should take into consideration the potential effect such a prospect would have on the communal leader to whom this letter was addressed. Put differently, the prospect of conversion could have been manipulated in order to induce Nahray to act in favour of the writer and relieve him of his suffering.

Whether this tactic worked or not we do not know, but further testimony of the utility of the prospect of conversion in reducing or even removing communal sanctions can be found in another Geniza letter, written in the first half of the twelfth century. This letter, written by the judge of the Alexandrian Jewish community to the head of the Jews and the Palestinian academy in Fustāṭ, Matsliah ben Shlomo ha-Kohen (held office, 1127-1139), concerns a Jew against whom a ban had been decreed in four different towns in Spain. The Jew therefore immigrated to Alexandria, where his family members demanded that the local judge implement the ban against him. Yet the judge, having been told that the man threatened to convert to Islam should he be excommunicated, turned to Matsliah to implement the punitive measure.⁸⁵ In this case, the man's threat to convert should also be seen within the broader context of responses to unfavourable judicial decisions. Typifying them as »uncouth country people«, Goitein noted that these people would threaten to convert to Islam when met by unfavourable decisions from the Jewish court.⁸⁶ As another example, he referred to what appears to be a court record, dated 1094 that mentions three brothers who insulted the judge and threatened to convert to Islam in response to a complaint of the Egyptian Jewish community of Malij.⁸⁷

A legal opinion attributed to Ibn Ḥanbal, in the ninth-century, suggests that non-Muslims who committed serious crimes hoped to gain legal favours from Muslim authorities. Ibn Ḥanbal was asked what the ruling should be concerning a Muslim man who committed a crime, such as adultery or theft, then apostatized, and eventually reverted to Islam. In reply, Ibn Ḥanbal ruled that he should be penalized for the crimes he had committed.⁸⁸ The question was likely inspired by an assumption that by re-embracing the Islamic faith a man could hope to escape penalty.⁸⁹ It thus indicates once again how conversion could be used – or at least thought to be used – strategically to extract social benefits.

85 TS 10 J 10.3 ed. and Hebrew trans. Frenkel, *Compassionate and the Benevolent*, 457-459 (doc. 49).

86 Goitein, *Mediterranean Society*, vol. 2, 302.

87 Goitein, *Mediterranean Society*, vol. 2, 592, n. 13.

88 Al-Khallāl, *Ahl al-mīlāl* 2, ed. Ḥamad b. Sulṭān, 513 (no. 1288).

89 The potential exemption from punishment for a criminal offence that was committed by a non-Muslim who converted to Islam appears to have been known in Islamic legal discourse. See the traditions (*aḥādīth*) quoted in Ibn Qayyim, *Aḥkām* 1, ed. 'Abd a-Ra'ūf Sa'd, 332; discussed in El-Leithy, *Coptic Culture and Conversion*, 38, n. 10.

Conclusion

The emergence of an Islamic polity in the Arabian Peninsula which would come to dominate vast parts of the Near East and the Mediterranean Basin by the second half of the seventh century did not introduce radical social changes. Instead, in insisting on a close correlation between theological and social fidelities, the Islamic theocracy was not very different from those it had replaced. It is in this context that spiritual gestures took on social meanings and social commitments were sealed with a spiritual stamp. Thus, just as spiritual transgressions were to be met with social sanctions, so could proper belief hold social privileges. In this essay I have attempted to provide snapshots of instances in which conversion to Islam afforded various exemptions from the material and social burdens that were required by adherence to a non-Islamic faith. Despite the lack of consistent conclusive evidence, there appears to be ample ground to argue that under different circumstances, in the first two centuries of Islamic rule, and to a greater extent later on, conversion to Islam was often motivated by material concerns. And while some non-Muslims were evidently prepared to compromise their beliefs, there are also indications that non-Muslim communal leaders were willing to compromise their laws and regulations in order to prevent conversion to Islam. Thus, in addition to focusing on the act of conversion to Islam as a means of acquiring social benefits, I believe that an equally significant observation would be to note the *potential* of this act as a means of negotiating social benefits.

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