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The Pact (*amāna*) between Mu`āwiyah ibn Abī Sufyān and `Amr ibn al-`Āṣ (656 or 658 CE): ‘Documents’ and the Islamic Historical Tradition

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The limits of uncritical approaches to the Islamic historical tradition are now widely accepted. However, a consensus about the transmission of accurate information about the first decades of Islam within that tradition has proved elusive.\(^1\) Where there has long been agreement is that some copies of very early ‘documents’ (the quotation marks indicate their secondary nature) survive, reproduced as later copies in the late eighth and ninth century sources. The most famous example is the so-called ‘Constitution of Medina’ of c. 622 CE; a strong case can also be made for other early ‘documents’, notably the ‘Ṣifṭīn arbitration agreement’ of c. 657.\(^2\) Beyond these, however, there is little consensus about early ‘documentary’ material.\(^3\) (The situation is better for the period after the mid-eighth century, although here, too, there is still disagreement.\(^4\) Indeed, it might be argued that the systematic study of purported ‘documentary’ material in the Islamic tradition for the very early period has yet to begin in earnest.

This article is concerned with one purportedly very early ‘document’ recorded, uniquely, in the *Kitāb al-Ṭabaqāt* of Ibn Sa`d (d. 845).\(^5\) It is presented as a copy of the agreement made during the first *fīna* (656–61) between `Amr b. al-`Āṣ (d. c. 663) and Mu`āwiya b. Abī Sufyān (d. 680).\(^6\) As it is presented by Ibn Sa`d, the agreement between `Amr and Mu`āwiya took place after the murder, in Dhū al-Ḥijja 35/June 656, of the third caliph, `Uthmān b. `Affān (r. 644–56). `Amr b. al-`Āṣ had been deprived of his governorship of Egypt by the same `Uthmān in c. 25–9/645–9.\(^7\) After `Uthmān’s murder, `Amr is said to have hesitated over whether to support the new caliph `Alī b. Abī Ṭālib, or to join Mu`āwiya, the governor of Syria, who had held back his pledge of allegiance. `Amr decided to ally with Mu`āwiya in exchange for a guarantee that he would be

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\(^*\) I would like to thank Chase F. Robinson, Christian Lange and Farrhat Arshad for comments on drafts of this article. I am entirely responsible for all faults that remain.
granted the governorship of Egypt, should they both be victorious against ʿAli. A treaty document was drawn up, of which Ibn Saʿd claims to record a copy (nuskha).

…Then (ʿAmr) departed, with his two sons, until he reached Muʿāwiya b. Abī Sufyān. He made a pledge to him (bāyaʿahu ʿalā) to seek blood-vengeance for ʿUthmān, and they wrote this contract (kitāb) between the two of them, a copy (nuskha) of which (follows):

§1 “In the name of God, the Beneficient, the Merciful: This is what Muʿāwiya b. Abī Sufyān and ʿAmr b. al-ʿĀṣ covenanted between them (taʿāhada) on the Temple Mount at Jerusalem (Bayt al-Maqdis) after the killing of ʿUthmān b. ʿAffān.

§2 Each one of the two took upon himself the obligation of faithfulness with respect to his counterpart (wa-ḥamala kull wāḥid min-humā ṣāḥibahu al-amāna):

§3 There is between us the covenant of God concerning (inna baynan ʿahd Allāh ʿalā) mutual aid in war (al-tanāṣur), reciprocal sincerity and advice (al-takhālūs waʾl-tanāṣūh) regarding God’s will and Islam (fi amr Allāh waʾl-Islām).

§4 Neither one of us will withdraw his help from (yakhdhulu) his counterpart on account of anything, nor take up a close confidante without him (wa-lā yattakhidhu min dīnihi waltijātan), nor will a son nor a father ever intervene between us while we live, in so far as we are able.

§5 If Egypt is conquered (futihat), then ʿAmr will rule over its land and its administration, to which the Commander of the Believers [i.e ʿUmar b. al-Khaṭṭāb] appointed him, and reciprocal advice, assistance and support (al-tanāṣūr waʾl-tawāzur waʾl-taʾāwun) are between us in what we have delegated (to one another) as far as government is concerned (baynanā...ʿalā mā nābanā min al-umār).
§6 Muʿāwiya is amīr over ʿAmr b. al-Āṣ with regard to the people and the
generalities of the government (fīʾl-nās wa-ʾāmmat al-amr) until God unites the
umma.

§7 When the umma comes together, then they will both participate in the
best of its government (aḥsan ʿamrīhā), according to the best which is between
them both regarding God’s will, which is (also) between them both (ʿalā aḥsan
alladhī baynahumā⁹ fī amr Allāh alladhī baynahumā) with respect to the
conditions which are in this document (mīn al-sharṭ fī hādhihi al-ṣaḥīfa).

§8 Wardān wrote in the year thirty-eight [June 658–May 659].”

As Wilferd Madelung put it, ‘The pact which turned the primary accused in the murder
… [of ʿUthmān] overnight into the official public prosecutor intrigued contemporary
observers and early historians.’¹⁰ However, little has been made of this text in modern
scholarship. In the introductory notes to his 1908 edition of this section of Ibn Saʿd’s
Kitāb al-Ṭabaqāt, Julius Lippert noted the presence of the ‘word-for-word’ copy of the
pact between ʿAmr and Muʿāwiya.¹¹ In 1926, Leone Caetani translated it into Italian in
his Annali dell Islam, s.a. 36 AH/656–7 CE, but did not remark upon it beyond noting its
unlikely date, and that, although it lacked an isnād, it was ‘certainly’ transmitted to Ibn
Saʿd by the man for whom he worked as a secretary, al-Wāqidi (d. 823).¹² However, for
Erling Petersen, who published his ʿAlī and Muʿāwiya in 1964, the ‘document’ was in
fact a product of early ninth-century, written by Ibn Saʿd himself, in order to
‘concretize…ʿAmr’s initiative’ (in offering his support to Muʿāwiya in return for the
fulfilment of his material ambitions in Egypt) in ‘epistolary form’.¹³ More recently,
Michael Lecker has accepted the ‘document’ as authentic in a 1989 article on an early
Islamic inscription in the Negev, as has Abdul Aziz Duri in an article on Jerusalem
published in the same year.¹⁴ In 1997, Wilferd Madelung did not discuss this text at all—
merely suggesting that an agreement between the two was ‘made public’, but noting the
volume of ‘evident fiction’ generated about the events.¹⁵

Thus, the current state of play is unsatisfactory: such opinion as there is remains
divided and, although Lippert, Petersen, Lecker and Duri have all taken positions on the
authenticity of the text, none has supported his ideas with even a cursory analysis of the
‘document’ itself. In what follows an attempt is made to pursue more thoroughly the question of the text’s provenance, and, in so doing, to suggest methods of more general relevance to the question of interpreting such ‘documents’ in the Islamic tradition.

There are three possibilities about the ‘document’. First, that it is indeed the text—partial or complete—of an agreement between Mu‘āwiya and Āmīr. Second, that it is a later fabrication, made at any time between 656 and 845; Third, that it is between the two: a more-or-less distorted version of some original text. Two complementary approaches must be brought to bear in attempting to decide between these possibilities: (i) criticism of form and content and (ii) analysis of its historiographical context.

The first of these approaches entails comparisons with other similar materials in the historical tradition, and with genuine documentary materials: distinctive parallels with genuinely seventh-century material might support the idea that this text is early too; anachronistic content or vocabulary would impeach the text (or at least be proof of interpolation). Likewise, unusual formal characteristics—odd opening and closing formulas, for example—might be indicators of an altered or even an entirely fictional text, or alternatively might be a marker of something genuinely ‘pre-classical’. The second approach demands that parallels elsewhere in the tradition are examined in order to cast light on the transmission of an original and authentic text or the later creation of a fictional one. The representation in the Islamic tradition of the first fitna, and of Āmīr and Mu‘āwiya themselves, is a related historiographical question which would also help to make sense of the presentation of the text, be it real or imagined.

What emerges from this analysis is that the ‘document’ does closely resemble similar agreements that almost certainly do date from the early-to-mid seventh century, and it too may in fact preserve features of an original treaty agreement. However, complete certainty about its provenance and authenticity is impossible. Some of the wider implications of this analysis are considered in the final conclusions of the article.

i. Form and content

The terse style of the text closely resembles similar ‘documentary’ material that is known to be seventh century. In contrast, ‘documents’ produced by the ruling elite for similar
purposes from the mid-eighth century and later tend to be much longer and more verbose, with more elaborate and extended Qurʾanic allusion and even quotation. They also sometimes include additional written elements, notably the terms of oaths and lists of witnesses; both appear to have been oral and unrecorded in the earlier agreements (as here). For example, a spurious version of the ʿahd (‘covenant’) of the Umayyad caliph Sulaymān for the succession was far longer and more elaborate than most eighth-century texts, reflecting its actual tenth-century origins. Thus, if the ‘document’ in question here is not authentic, it is at least a convincing length, and lacks the extended Qurʾanic flourishes and scribal elaborations found in ‘documents’ of the mid-eighth century and later. (Although, like other seventh-century texts, it does use Qurʾanic vocabulary.) That is, either it was produced within two or three generations of its purported origin, or it was invented later, but by someone with an eye for seventh-century style.

Its form, phrasing and vocabulary are worth analysing more closely, under the rubrics of the paragraph numbers introduced above.

§1 bismillāh al-Raḥmān al-Raḥīm hādhā mā taʿāhada ʿalayhi Muʿāwiya b. Abī Sufyān wa-ʿAmr b. al-ʿĀs bi-Bayt al-Maqdis min baʾd qatl ʿUthmān b. ʿAffān (‘In the name of God, the Beneficent, the Merciful: This is what Muʿāwiya b. Abī Sufyān and ʿAmr b. al-ʿĀs covenanted between them on the Temple Mount in Jerusalem after the killing of ʿUthmān b. ʿAffān’).

The opening basmala is, of course, as old as Islam itself: it appears in every Qurʾanic sura bar one, and opens many of the earliest surviving Islamic inscriptions and documents, as well as demonstrably early material such as the ‘Constitution of Medina’ and the ‘Ṣiffin Arbitration Agreement’. The basmala also had some parallels in pre-Islamic Arabian epigraphic practice, from which it diverged in phrasing, and which it seems to have replaced immediately. After the basmala, the content of the document is introduced by a formula that parallels the ‘Ṣiffin Arbitration Agreement’. This treaty was made within a few months of the purported date of our text and also involved ʿAmr and Muʿāwiya (Hinds’ ‘Version A’; hereafter SAA). Thus, SAA, hādhā mā taqādā ʿalayhi ʿAlī b. Abī Ṭālib wa-Muʿāwiya
b. Abī Sufyān and §1, hādhā mā taʿāhada ʿalayhi Muʿāwiya b. Abī Sufyān wa-ʿAmr b. al-ʿĀṣ. Hādhā mā is followed in both cases by a reciprocal verb of the form taftāʿala (‘form VI’) taking ʿalā before its object, and the two parties (ʿAlī and Muʿāwiya and Muʿāwiya and ʿAmr, respectively) follow as its subject. (Seniority in position in such documents was, according to the tradition, yet to be firmly established, although it is interesting that in both cases one might take seniority to be respected.)

With this opening, both SAA and §1 deploy the ‘objective’ (as opposed to the ‘subjective’) formula, which later scholars would describe as most appropriate where a new and original agreement was being drawn up between two parties. The same formula is said to have been used by ʿAbd al-Muṭṭalib in a pre-Islamic, mid sixth-century ḥilf made with a branch of Khuzāʿa: hādhā mā taḥālafta ʿalayhi ʿAbd al-Muṭṭalib wa-rajalāt baṇī ʿAmr min Khuzāʿa. In this respect, all three texts (our text, SAA and ʿAbd al-Muṭṭalib’s ḥilf) differ from the ‘Constitution of Medina’ which begins hādhā kitāb min Muḥammad al-nabī bayna ʿl-muʿminīn… ‘This is a document from Muḥammad the Prophet between the Faithful…’ This latter formula is unusual, and appears to express the particular position of Muḥammad in the ‘Constitution’ as the arbitrator among a new community based on a treaty-agreement.

None of the three texts provide a parallel for the next phrase, which specifies that the agreement was made in Jerusalem, after the killing of ʿUṭmān (bi-Bayt al-Maqdis min baʿd qatl ʿUṭmān b. ʿAffān). Both of these references are somewhat unusual. There is some evidence that in eighth- and ninth-century Arabic texts Bayt al-Maqdis refers specifically to the Temple Mount at Jerusalem (whence the translation given here), whereas in later ones it simply denotes the city of Jerusalem. That the Temple Mount was already an important sacred site for the Muslims is well known, and Muʿāwiya very likely concluded other pledges there, probably in 40/660. However, ʿIlyāʾ—the Arabised form of Aelia, the Roman name for Jerusalem—is the standard name for the city in seventh-century Islamic epigraphy relating to Jerusalem. Furthermore, although the taking of pledges at sacred locations was a well-established practice among the Arabs that continued into Islam, the location of the agreement was not usually mentioned in the text of the treaty.
The reference to the agreement having taken place ‘after the killing of ʿUthmān’ is also an unusual feature, which might be explained by its particular circumstances: this was the *casus belli* for both Muʿāwiya and ʿAmr. The absence of titles or pious formulas around ʿUthmān’s name has precedents in the very early period to which the ‘document’ purportedly belongs, whereas it would be quite unusual in a later text.

§2 *wa-ḥamala kull wāhid minhumā ẓāhibahu al-amāna* (‘Each one of the two took upon himself the obligation with respect to his counterpart’).

This recalls both pre-Islamic precedent in *hilf* agreements and the Qurʾānic language of contract, covenant and trust. *Amāna* (or its plural, *amānāt*), appears six times in the Qurʾān. In four places it refers to pledges and agreements in general, and once specifically to God’s covenant with Humanity. Thus, Q 8.27, *wa-takhūnū amānātikum* (‘Nor be ye unfaithful to the trusts committed to you’), Q 23.72, *innā ʿaraḍnā al-amāna ʿalā ʿl-samawāt ... waʾ-ḥamalahā al-insān* (‘Verily we offered the trust to the heavens … but man took it upon himself’). Likewise, the root *ḥāʾ–mīm–lām*, which relates to the bearing of loads, appears in the Qurʾān in 7 places, always with the meaning of undertaking an agreement.

This is also the one place in the text in which a precise parallel exists with material about the agreement between Muʿāwiya and ʿAmr found elsewhere in the Islamic historical tradition: these important parallels are discussed under ‘ii’, ‘historiography’, below.

§3 *inna baynānā ʿahd Allāh ʿalāʾl-tanāṣur waʾl-takhūlūs waʾl-tanāṣuh fī amr Allāh waʾl-Islām* (‘There is between us the covenant of God concerning mutual aid in war, reciprocal sincerity and advice regarding the will of God and Islam’).

The particle *inna* with which this section begins indicates that here and in the following clauses we are dealing with the terms of the *amāna*. The general terms are set out here, and more specific ones follow in §4–§7. A second notable formal feature is that this paragraph and the one following it are in the 1st person plural rather than the 3rd person
singular and dual found in the rest of the text. A parallel for this is found in SAA, where
the introductory clauses are in the 3rd person, and the content of the agreement in the 1st:
ḥādhā mā taqādā ... akhadhnā [‘This is what they both agreed by treaty … we
imposed’]). The return to the 3rd person in subsequent clauses is for clarity. Again, this
finds a parallel in SAA.

The content of the clause is notable for its intertextuality with other early written
agreements. *Inna baynanā ʿahd Allāh ʿalāʾ-l-tanāṣur waʾl-takhāluṣ waʾl-tanāṣuh fī amr
Allāh waʾl-Islām* (‘There is between us the covenant of God concerning mutual aid in
war, reciprocal sincerity and advice regarding God’s will and Islam’) recalls, among
other texts, SAA’s *inna kitāb Allāh baynanā wa-baynakum ... wa-akhadhnā ʿalayhimā
ʿahd Allāh wa-mīthāqihi* (‘God’s book is between us and you … and we impose on them
both [the two arbitrators] God’s covenant and compact’).34 In the ‘Constitution of
Medina’ the term *bayna* (‘between’) is also used, but to indicate mutual obligations upon
to an agreement.35

The ʿ*ahd Allāh* is a standard feature of many subsequent political contracts.36
That it stands alone here is slightly unusual; it is more often paired with *mīthāq* as in the
phrase from SAA cited above. ʿ*Ahd Allāh* occurs eight times in the Qurʾān, and the noun
ʿ*ahd* 29 times in all.37 It was understood to be the primordial covenant between God and
Man, invoked in political contracts as guaranteeing all agreements between men.38

The obligation of *al-tanāṣur* (‘mutual aid in war’) was fundamental to most pre-
Islamic alliances—see, for example, ʿ*Abd al-Muṭṭalib’s* treaty document: *taḥālaftū ʿalāʾ-l-
tanāṣur waʾl-nuʿāsāh* (‘They made a treaty for mutual help in war and mutual
assistance’); later in the same text *al-nuṣra* (‘aid in war’) is reiterated as the obligation
incumbent upon both parties;39 the same word occurs in the copies of treaties that the
Prophet is said to have made with the Arabian tribes.40 *Al-naṣr* (‘aid in war’) is central to
many of the clauses of the ‘Constitution of Medina’.41 The consonantal root also occurs
in the Qurʾān, with similar meanings.42

The same is true for *takhāluṣ* (‘reciprocal sincerity’) and *tanāṣuh* (‘reciprocal
sincere advice’). The consonantal roots of both words appear in various forms in the
Qurʾān, some of which carry closely related meanings of sincere, uncompromised advice
or devotion.43 The nouns *nuṣḥ* and *naṣīḥa* (‘sincerity’, ‘sincere advice’) also appear once
each in the ‘Constitution of Medina’, in a clause that apparently refers to the obligations of the Jews (wa-inna baynahumu ’l-nuṣḥ wa’l-naṣīḥa). Of course, ‘sincere advice’ also has a very long pre-Islamic history as a staple of treaty-texts alongside obligations of military service.

In the agreement between ʿAmr and Muʾāwiya, these mutual obligations relate to amr Allāh waʾl-Islām (‘God’s will and Islam’). Amr Allāh appears in many places in the Qurʾān. (Amr and umūr can also stand alone, or in other constructions, as they do elsewhere and in other clauses of this text. The plural, umūr, appears later in this text at §5. ʿĀmmat al-amr occurs at §6, and amr Allāh again at §7.46) The translation of amr depends on context. In the Qurʾānic construction in this clause, it is often understood to have the sense ‘command’, or ‘will’, of God.47 Here, paired with Islam, it implies that the co-operation of ʿAmr and Muʾāwiya is to take place in furthering God’s will and His religion, Islam. (Where amr or umūr stand alone (as they do later, at §5, §6 and §7), ‘matter’ and ‘affairs’ are often probably better translations; by extension, they can also be translated as ‘the government’ as they are at §6 and §7.)

It is also worth noting that, were this an authentic seventh-century text, this would be a very early attestation of the term islām outside the Qurʾān (where it occurs 8 times).48 One of the earliest secure attestations in a documentary or epigraphic context is the inscription in the Dome of the Rock (c. 72/692).49

§4 wa-lā yakhdhulu ahadunā šāhibahu bi-shay’ wa-lā yattakhidhu min dīnīhi waliqatan wa-lā yahūlu baynanā walad wa-lā wālid abadan mā hayyaynā fī mā istaṭaʿnā (‘Neither one of us will withdraw his help from his counterpart on account of anything, nor take up an associate to his exclusion, nor will a son nor a father ever intervene between us, in so far as we are able’).

Much of this language has Qurʾānic and other early seventh century precedents. khadhala means to ‘withdraw help from’ at Q 3.160 (where God is the subject of the verb). Elsewhere, false gods and Satan ‘withdraw help’ (Q 17.22, Q 25.29). That is, khadhl, ‘desertion’, is the opposite of the naṣr expected of allies.50
walījah appears once in the Qurʾān (Q 9.16), meaning God, His Messenger and the Muslims, who are taken as the exclusive ‘familiars’ or ‘associates’ of ‘those who strive’ (jāhādū). The verb ḥāla is Qurʾānic, although it does not refer to the breaking of agreements in the Qurʾān.\(^5\)

The specification about the superiority of the agreement over kinship ties recalls the reservation about punishing miscreants in the ‘Constitution of Medina’: *wa-law kāna walad aḥadīhim* (‘even if he is the son of one of them’).

The reservation *fī mā istaʿtaʾnā* (‘in so far as we are able’) is found in a number of contexts, notably ḥadīths about the *bayʿa* (‘pledge of allegiance’) taken to Muhammad that assert that the *bayʿa* was ‘for hearing and obeying’ or, ‘for hearing and obeying in so far as you are able’.\(^5\) These ḥadīth can probably be dated to the early eighth century in their current form.\(^53\) The verb itself is Qurʾānic, and it is often used to refer to similar limits on obligations there, but this precise formula is not found in the Qurʾān.\(^54\)

§5 *fa-īdāh futīḥat Miṣr fa-inna ʿAmran ʿalā arḍīhā wa-imāratīhi [sic] allatī ammarahu ʿalayhā amīr al-muʿminīn wa-baynānā al-tanāṣīh waʿl-tawāzūr waʿl-taʿāwun ʿalā mā nābanā min al-umūr* (‘If Egypt is conquered, then ʿAmr will rule over its land and its administration, to which the Commander of the Believers appointed him, and sincere reciprocal advice, assistance and support are between us in what we have delegated [to one another] as far as government is concerned’).

At this clause we arrive at what was said to have been the crux of the agreement between ʿAmr and Muʿāwiya: ʿAmr was to receive the lucrative governorship of Egypt, to which ʿUmar b. al-Khaṭṭāb (presumably the ‘Commander of the Believers’ intended here) had appointed him and from which he is said to have resented being removed by ʿUmar’s successor, ʿUthmān.

The use of *futīḥat* for the ‘conquest’ of Egypt might appear slightly unusual in that it appears to refer to the conquest of territory that is already largely Muslim. However, it is used elsewhere in the traditions about the *fitna* with the same sense—where actors understand God to be on their side, *fataḥa* is used; *ghalaba* is used of their enemies.\(^55\)
This ‘conquest’ of Egypt by ‘Amr and Mu‘āwiya took place in two phases according to the tradition: first in 36/June 656–July 657, when they failed, and in Sha‘bān 38/January 659, when they succeeded. In the Islamic tradition, the Egyptians were divided between ‘Alī and ‘Uthmān (though the latter did not necessarily support Mu‘āwiya).\(^{56}\) According to the near-contemporaneous Armenian source, Pseudo-Sebeos, a substantial group of Muslims ‘negotiated with the king of the Greeks, concluded a peace with him and went over to his side’ during the first fitna. This is not mentioned in other sources.\(^{57}\)

Here, as in the ‘Constitution of Medina’, bayna is used to express mutual obligation (see above, §3). Al-tanāṣuh (‘sincere mutual advice’) reappears from §3. Al-tawāżur (‘reciprocal assistance’) and al-ta‘āwun (‘reciprocal support’) are, however, new. Of the three, only al-tanāṣuh is echoed in the ‘Constitution of Medina’ (see §3, above).

Again, there is no precise Qur‘ānic parallel for any of the three words, but the consonantal roots, and some near synonyms, are found for al-tanāṣuh and al-tawāżur;\(^{58}\) the 3\(^{rd}\)-person plural form ta‘āwanī does appear in the Qur‘ān, meaning ‘to give mutual help’.\(^{59}\)

§6 wa-Mu‘āwiya amīr ‘alā ‘Amr b. al-‘Āṣ fi’l-nās wa-fī ‘āmmat al-amr ḥattā yajma‘a Allāh al-‘umma (‘Mu‘āwiya is amīr over ‘Amr b. al-‘Āṣ with regard to the people and the generalities of the government (amr) until God unites the umma’).

The title amīr is pre-Islamic, and can refer to any leader.\(^{60}\) It quickly gained a prominent place in Islam as the title for army commanders and governors and is attested in early epigraphy.\(^{61}\)

Here al-‘umma appears to refer to the Muslims as a whole. In the Qur‘ān it is used more generally to refer to any ‘people’ united by religion, although some progression towards an emphasis on the Muslim community in particular has been suggested.\(^{62}\) The scope of the term in the ‘Constitution of Medina’ is disputed, but it is usually understood to imply this later, more specific sense, in the ‘Constitution of Medina’.\(^{63}\)
That Muʿāwiya is the senior partner only ‘until God unites the umma’ is a notable clause: along with the use of amīr, rather than amīr al-muʾminin or khālifat Allāh (‘Commander of the Faithful’ or ‘God’s Caliph’), it appears to fit a context in which Muʿāwiya has yet to publicly claim the caliphate as his own.

§7 fa-idhā ihtīmaʿat al-umma fa-innahumā yadhulānī fī ʾaḥsan amrīhā ʿalā ʾaḥsan alladhī baynahumā64 fī amr Allāh alladhī baynahumā min al-shart fī hādhīhi ʿl-ṣaḥīfa

(‘When the umma comes together, then they will both participate in the best of its government (amrīhā), according to the best which is between them both regarding God’s will, which is (also) between them with respect to the conditions which are in this document.’)

This clause affirms the plan division of the spoils established at §5 and reasserts the binding nature of the document under God. It also builds on the previous clause, looking forward to the moment when the umma is united and securing a share in the benefits of rule for ʿAmr. It also echoes the khabar which precedes the ‘document’, with its reference to participation in the government (amr): whereas ʿAmr has no hope of gaining a share in power from ʿAlī (he is, ‘without partners in any aspect of his command (amr)'), he has negotiated a lucrative governorship from Muʿāwiya.

Much of the terminology of this clause echoes §4. However, two more words are worth noting: ṣaḥīfa (‘document’) is Qurʾānic, and also occurs in the ‘Constitution of Medina’ and SAA;65 shart is the standard term in the later, classical texts for a conditional agreement, or contract. It occurs in Abbasid-era political contracts, but does not seem to be common in earlier ones.66 It is also used of this particular agreement by al-Yaʿqūbī (d. c. 905), who does not, however, reproduce the text itself.67

§8 wa-kataba Wardān sana thamān wa-thalāthin (‘Wardān wrote in the year thirty-eight [June 658–May 659]’).

Early inscriptions and documents often end with a similar formula naming the scribe and giving the date at which he wrote, as do ‘documents’ found in the later sources.68 The
scribe Wardān is clearly the mawlā of ʿAmr b. al-ʿĀṣ, who is mentioned throughout the tradition in relation to this event. One would expect a month too (though not a day).\textsuperscript{69}

What is initially more surprising here is the year itself—38/June 658–May 659; a point that was noted by Caetani in 1926.\textsuperscript{70} In the material that frames the document, as elsewhere in the historical tradition, the implication is that this agreement was made shortly after the murder of ʿUthmān; ʿAmr pledged allegiance to Muʿāwiya, before their first, failed attempt to conquer Egypt, in 36/30 June 656–18 June 657, and before the battle of Ṣiffīn.\textsuperscript{71} The same assumption has been made by modern scholars who have looked at the document.\textsuperscript{72} Thus, given that the battle at Ṣiffīn probably took place after prolonged manoeuvring in early Ṣafar 37/July 657, and this is also the date given for Ṣiffīn by Ibn Saʿd elsewhere in his \textit{Tabaqāt},\textsuperscript{73} one would expect the document to be dated 36/30 June 656–16 June 657, not 38/9 June 658–27 May 659.\textsuperscript{74}

On the one hand, if the document is indeed largely a genuine seventh-century text, then there are two possible explanations for this anomaly. The first is that a later copyist of the manuscript has copied the date incorrectly, giving 38 where it should be 36. Alternatively, the document was in fact written \textit{after} the battle of Ṣiffīn, but \textit{before} the subsequent arbitration between the two sides (at Dūmat al-Jandal or Adhrūḥ, depending upon the tradition). This arbitration appears to have been originally scheduled for Ramādān 37/February–March 658 (as in SAA\textsuperscript{75}), but only actually to have taken place in Shaʿbān 38/January 659.\textsuperscript{76}

On the other hand, if the ‘document’ is a later forgery, then there are three more possibilities: the date is again due to a copyist’s error, it is the error of its forger, or it is the date deliberately given to the ‘document’ by the forger—perhaps intending the text to belong to the period after Ṣiffīn.

Whether or not the ‘document’ is genuine or a later composition, if we accept that the date was originally deliberately given as 38/658–9 then the ‘document’ has been ‘misplaced’ in the chronological sequence of \textit{akhbār} material; it would in fact have been drawn up (or, if forged, have been said to have been drawn up) \textit{in the wake} of Ṣiffīn, and so it would relate exclusively to preparations for the second (and successful) attempt to conquer Egypt, in Ṣafar 38/9 July–6 August 658.\textsuperscript{77} This makes some sense: the focus of the agreement is on ʿAmr’s rights to Egypt and the planned sharing of the spoils of
victory one the unma is united. If this interpretation is correct, then the sequence of
events has been simplified in the historical tradition, so that the agreement for loyalty in
return for Egypt has been made and written in 36/656. Ibn Saʿd’s text also explicitly links
the agreement to events that immediately follow the death of ʿUthmān, despite its date.
Against this reading of 38 as ‘correct’, one might cite §1’s baʿd qatl ʿUthmān ‘after the
killing of ʿUthmān’, since this would be a reference to something that happened two
years earlier. The best explanation for this is that ʿUthmān’s assassination remained a key
point of reference for the two parties as their casus belli.

ii. Historiography

The ‘document’ is introduced by nuskhatuhu (‘a copy of it’), without an isnād. The
preceding khabar is a fragment because of a lacuna in the published MS, and so also
lacks an isnād. Given the uneven use of isnāds in historical material, does not carry
weight regarding the authenticity of the text. Thanks to other evidence, it does remain
possible to reconstruct some of the transmission of the ‘document’, which appears (after
Caetani) to have reached Ibn Saʿd via the traditionist al-Wāqīḍī (d. 823).

In his Fihrist, Ibn al-Nadīm (d. 995 or 998) states that Ibn Saʿd worked as a
secretary for al-Wāqīḍī and composed his books from al-Wāqīḍī’s collections (tasnīfāt);
indeed, Ḥsān ʿAbbās and Stefan Leder have both suggested that we should suppose that a
Kitāb al-Ṭabaqāt by al-Wāqīḍī was the basis for his secretary’s work of the same name. ꞌ
It is also worth noting in connection with this particular ‘document’ that al-Wāqīḍī is said
to have composed a Kitāb al-Mubāyahāt (‘Book of Pledges of Allegiance’) and a Kitāb
Ṣifīn, both now lost. ꞌ It might be objected that if al-Wāqīḍī was the source for this text
one would also expect it to appear elsewhere. However, Ibn Saʿd’s privileged access to
al-Wāqīḍī’s materials might explain this absence.

A second way to approach the provenance of the kitāb is to examine parallels with
the material that immediately precedes it. The ‘document’ is unique to Ibn Saʿd, but the
fragment of the khabar that precedes it is not—on the contrary, variants of it are
widespread and well known. This suggests that two separate traditions were combined at
some point. Thus, one important aspect of the document’s context is not to so much to
provide a plausible named transmitter or composer for it, but rather to establish a likely *terminus post quem* for its combination with better-known material.

The fragmentary *khābar* that precedes the ‘document’ in the published MS is the tail end of a widely disseminated account that describes ʿAmr’s consultation with his two sons about the problem of whether to make the *bayʿa* to ʿAlī or Muʿāwiya. In what remains of Ibn Saʿd’s version, it begins where ʿAmr is answering his two sons, Muḥammad and ʿAbd Allāh, on their advice about siding with either Muʿāwiya or ʿAlī. Wardān, his mawlā, is also present.

ʿAmr b. al-ʿĀṣ

ʿ... [lacuna] ...and the more sound thing for my religion (*dīn*). As for you, O Muḥammad, you have commanded me to (do) what is more sensible in my worldly affairs (*dunyā*) and worse for me in my other-worldly ones. As for ʿAlī, the pledge of allegiance (*bayʿa*) had already been given to him, with him relying on his priority (*sābiqa*) and without partners in any aspect of his command (*amr*). Set out, Wardān!'

Then (ʿAmr) departed, with his two sons, until he reached Muʿāwiya b. Abī Sufyān. He made a pledged to him to (*bāyaʿahu ʿalā*) seek blood-vengeance for ʿUthmān, and they wrote this contract (*kitāb*) between the two of them, a copy (*nuskha*) of which (follows)...

In this story, ʿAbd Allāh b. ʿAmr stands for ‘piety’ in counselling his father to give a pledge of allegiance to ʿAlī, whereas Muḥammad (where we join the story in the MS fragment) counsels the worldly course of following Muʿāwiya: *wa-amma anta yā Muḥammad fa-amartanī biʾlladhī anbahu lī fī dunyāya wa-asharru lī fī ākhiratī* (‘As for you, Muḥammad—you have commanded me to [do] the more sensible thing for me in my worldly affairs and the worst thing for me in my other-worldly ones’). ʿAmr, in keeping with his later image in the historiography, of course chooses ‘worldliness’, and sets out to meet Muʿāwiya.
There are near-exact parallels for these lines in a lengthy khabar, which is found in al-Ṭabarī’s (d. 923) Taʾrīkh. Al-Ṭabarī gives his source as Mūsā b. ʿUqba (d. 758), via al-Wāqidi.81 The two relevant passages are the following:

... ʿAmr said, ‘Summon Muḥammad and ʿAbd Allāh to me!’ So they were both summoned to him. He said, ‘What has reached both of you about the killing of ʿUthmān—may God be pleased with him—, about the pledge of allegiance to ʿAlī, and about Muʿāwiyah lying in wait on account of ʿAlī’s transgressions, has happened.’ He said, ‘What are the opinions of the two of you? As for ʿAlī, there is no good in him; he is a man who is relying upon his priority (sābiqa), while he is without partners in any aspect of his command’ …

... ʿAmr said, ‘As for you, O ʿAbd Allāh, you have commanded me to (do) what is best for me in the Other World and (to do) the more sound thing for my religion (dīn); as for you, O Muḥammad, you have commanded me to do what is more sensible in my worldly affairs (dunyā) and worse for me in my other-worldly ones. Then ʿAmr b. al-ʿĀṣ departed, with his two sons, until he reached Muʿāwiyah. He found the Syrians urging Muʿāwiyah to seek blood-vengeance for ʿUthmān …82

In al-Ṭabarī’s version, however, ʿAmr goes on to be influential in persuading Muʿāwiyah to seek blood vengeance. The khabar concludes, ‘Muʿāwiyah made peace with him and inclined to him’ (fa-ṣālaḥahu Muʿāwiyah wa-ʿaṭafa ʿalayhi).83

One element found in Ibn Saʿd’s text but missing from al-Ṭabarī/al-Wāqidi/Mūsā b. ʿUqba is the expression, ‘Set out, Wardān!’ (irḥal yā Wardān). This line is found in al-Minqārī’s (d. 827–8) Kitāb Waqāʾat ʿIṣṭifān, on the authority of ʿUmar b. Saʿd b. Abī al-Ṣāyād al-Asadī (d. c. 796) and Muḥammad b. ʿUbayd Allāh al-Qurashī.84 It also occurs in a very close parallel of al-Minqārī’s material, found without an isnād in al-Yaʿqūbī’s (d. c. 905) Taʾrīkh, in Ibn Aḥḥam’s (fl. tenth-century?) Kitāb al-Futūḥ,85 and in Ibn ʿAsākir’s (d. 1176) Taʾrīkh Dimashq.86 Al-Balādhurī reports related material on the authority of ʿĪsā b. Yazīd al-Kīnānī (Ibn DaʾĪb, fl. c. 786), via al-Madāʾinī (d. c. 840–50).87
Thus, it is likely that the framing material for Ibn Saʿd’s document derives from al-Wāqidi: much of it is found word-for-word on al-Wāqidi’s authority in the History of al-Ṭabarī. However, Ibn Saʿd’s version is not identical to al-Tabarī’s. It also betrays an awareness of other traditions about the same events found in other sources; all go back to late eighth-century transmitters. Hence, the terminus post quem for the ‘document’s’ integration with existing traditions is also probably the late eighth or early ninth century (although an earlier date for their combination cannot, of course, be completely excluded). As we have seen, if the date of 38/658 is accepted as correct, then the ‘document’ has been incorrectly placed in a context that implies it was composed in 36/656, rather than two years later, on the eve of the conquest of Egypt.

A third, related, approach to the provenance of the document is to look for parallels for its content in the rest of the historical tradition. Besides the formulaic features of all such treaties set out in ‘i’, which one would expect to be similar, there are almost none. However, there is one telling phrase at §2: wa-ḥamala kull wāḥid minhumā ṣāḥibahu al-amāna (‘Each one of the two took upon himself the obligation with respect to his counterpart’). In a khabar on the authority of ‘other than ʿUmar’ (wa-fī ḥadīth ghayr ʿUmar), al-Minqārī gives:

Muʿāwiya wrote (kataba lahu kitāban), “On condition that no condition is violated in obeying,” and ʿAmr wrote, “On condition that obedience is not violated by a condition,” and each one of the two schemed against his counterpart (wa-kāyada kull wāḥid minhumā ṣāḥibahu).¹⁸⁸

Al-Minqārī’s implication is that each party sought to make the conditions advantageous to themselves, Muʿāwiya by making ʿAmr’s obedience to him unconditional, ʿAmr by insisting on Egypt as a condition for his obedience. What is more important for our purposes is that the phrase wa-[verb] kull wāḥid minhumā ṣāḥibahu is an exact parallel with part of §2 in Ibn Saʿd’s ‘document’. In the ‘document’, the sense of the phrase is transformed by the change of the verb from kāyada to ḥamala: from an anecdote about the devious nature of the two parties to the agreement, it becomes a mutually beneficial arrangement; the terms of the treaty amount to a plan for the division of the spoils.
The passage from al-Minqārī is one of at least four places where the phrase *kull wāḥid minhumā sāḥibahu* occurs in the historical tradition in relation to these events. The same expression, *wa-kāyada kull wāḥid minhumā sāḥibahu* is also found in: al-Minqārī/or Umar b. Saʿd/Muḥammad b. ʿUbayd Allāh;89 in the anonymous mid-tenth-century (?) *Kitāb al-Imāma waʾl-Siyāsa*;90 and in Ibn ʿAsākir, in an ‘elaboration’ attributed to ‘al-Kalbī’ (*wa-zāda al-Kalbī fī ḥadīthihī*).91 There is no mention of the writing of the treaty document in al-Ṭabarī/al-Wāqīdī/Mūsā besides the verb ṣālahahu (‘[Mu‘āwiya] made peace with him’). Al-Bāladhurī/al-Madāʾīnī/Ibn Daʾūb includes the contradictory conditions of the two parties, but not the crucial phrase about each one scheming against the other.92

This precise textual parallel suggests that the tradition about the ‘document’ preserved by Ibn Saʿd, and the *khabars* from both the ‘Syrian’ and the ‘Iraqi’ provenance recorded in the previous generation by al-Minqārī, are interrelated. The question is exactly how. There are three possibilities: either the tradition derives from the document, or the document derives from the tradition, or both the extant document and the tradition derive from a now lost third source. Such a lost third source of course remains hypothetical, is unnecessary to explain the evidence and so need not detain us for long, although it remains a possibility. Given that the ‘document’ occurs only in Ibn Saʿd, one might suspect the second explanation: that it was by an author who was very familiar with all the traditions about ʿAmr and Muʿāwiya and who was influenced, consciously or unconsciously, by some of the material deriving from the late eighth-century traditionists. This would place the ‘document’s provenance in the late eighth or early-to-mid ninth century, and probably in Iraq. However, it is certainly quite possible that the reverse has in fact occurred, and that the anecdotal traditions have modified a line from the ‘document’: in favour of this hypothesis is the way that the traditions have transformed the meaning of a formulaic phrase in the original agreement into a critical commentary on Muʿāwiya’s and ʿAmr’s motives in making the pact. This would conform with a pattern of legendary Abbasid-era material about the *fitna* that denigrates the Umayyads.93

The only other parallels with the content of the document occur in the later *History* of al-Yaʿqūbī (d. c. 905), who summarizes the drawing-up of the agreement at the end of material closely related to that found in al-Minqārī/ʿUmar b. Saʿd/Muḥammad
b. ʿUbayd Allāh. His summary appears to echo Ibn Saʿd’s version of the agreement in two places: wa-kataba lahu bi-Miṣr sharṭan wa-ashhada lahu shuhūdan wa-khatama al-sharṭ wa-bāyaʿahu ʿAmr wa-taʿāhadā ʿalāʾl-wafāʾ (‘[Muʿāwiya] wrote a document about Egypt for him, had it witnessed for him and sealed the dispositive conditional agreement. ʿAmr pledged allegiance to him and they both made a covenant that they would fulfil their obligations.’). 95 The verb for the agreement is the same as in §1 (taʿāhadā ... ʿalā) and, as in §7, the agreement is described as a sharṭ. It seems likely that al-Yaʾqūbī had access to a wide range of the late eighth and early ninth-century material, including Ibn Saʿd’s account, but suppressed the document itself—something that is not unusual in his very concise universal history.

iii. Conclusions

The pact between ʿAmr and Muʿāwiya is a salutary lesson in the difficulties with writing the history of the first century of Islam, and in particular about the caution that must be exercised in using purported ‘documents’ preserved only in the later tradition as evidence for historical events. With the present state of knowledge, it is impossible to arrive at a definite conclusion about the authenticity of the ‘document’. However, the range of possibilities can be narrowed, and seven main conclusions arrived at.

1. First, there is the question of the date given at the end of the ‘document’. It is 38/658–9 where, on the basis of both the immediate context and the rest of the tradition, one might expect 36/656–7, or 37/657–8. If this is not a chance copyist’s error, then it indicates that the document, real or imagined, was originally associated with events after Šīfīn, when Muʿāwiya sent ʿAmr to conquer Egypt. Given that ʿAmr had presumably already pledged his allegiance to Muʿāwiya (perhaps prior to his participation in an earlier attempt to conquer Egypt in 36/656–7, and certainly before his presence at Šīfīn in 37/657), our ‘document’ becomes a second agreement, publicly reaffirming the rights of the two men on the eve of the second attempt to gain control of Egypt, in 38/658. This suggests that, authentic or not, the ‘document’ may not have originally belonged in the context Ibn Saʿd assigned to it. Further, given the silence of the historical tradition about any such pledged agreement between ʿAmr and Muʿāwiya in 38/658, this unusual date is
probably a point in favour of the authenticity of the ‘document’: a forger would have been inventing a ‘document’ for a context that has left no other trace of such an agreement in the tradition. Against this interpretation is the sheer amount of work that it demands of the date: a simple copyist’s error (albeit a slightly unusual one) would invalidate this interpretation.

2. Second, there is the question of the transmission of the text. Although Petersen suggests that it was composed by Ibn _SA)d himself, and this might seem plausible since it is unique to his work, it is much more likely, after Caetani, that it reached Ibn _SA)d from al-Wāqidi. First, there is al-Wāqidi’s known interest in pledged agreements (mubāya‘āt). Second, there is the location of the ‘document’, embedded as it is in material that, according to al-Ṭabarī, also largely derives from al-Wāqidi. Finally, there is the unusual date of the document, which might betray a different original context to that given it by Ibn _SA)d.

3. There is no doubt that if the ‘document’ is a later forgery it is a very careful one, which bears some particularly close resemblances in its archaic formulas and structure to the ‘Ṣiffīn Arbitration Agreement’, the authenticity of which is much more certain. The language of the pact echoes both this agreement and the ‘Constitution of Medina’: it is Qur’anic but does not quote the Qur’an, nor ḥadīth, and it lacks the verbose quality of late Marwanid documents, let alone Abbasid ones. It also fits the historical context quite precisely, perhaps very precisely indeed if the ‘unusual’ date of 38/658 is accepted. Thus, a strong possibility remains that it is indeed a chance survival of an authentic treaty agreement, shorn of any details about its transmission and extant only in Ibn _SA)d’s Kitāb al-Ṭabaqāt.

4. However, given the available evidence, it of course remains very possible that the ‘document’ is in fact an eighth- or early ninth-century composition, again most likely by al-Wāqidi. As we have seen, the main point that might be taken in favour of forgery is the precise textual parallel found in other akhbār about the agreement between Ṣ Amr and Muʿāwiya, wa-kāyada kull wāḥid minhum ā ṣāḥibahu (‘each one of the two schemed against his counterpart’). 96 It is this phrase that is paralleled very closely at §2: wa-ḥamala kull wāḥid minhum ā ṣāḥibahu al-amāna (‘Each one of the two took upon himself the obligation with respect to his counterpart’). Furthermore, it is strange that no other
eighth or ninth century traditionist reproduced it anywhere. Here the ‘Ṣiffin Arbitration Agreement’ is a useful comparator—it is all over the early tradition. There are also a handful of other features which are a little dubious: Bayt al-Maqdis (‘Temple Mount’) instead of the İlyā’ (‘Aeliat’) that might be expected at §1; the reminder of the murder of ʿUthmān in the same clause (which perhaps somewhat contradicts the unusual date at the ‘document’s’ end); even, perhaps, the presence of the term Islām itself at §3.

5. It is now quite widely accepted that al-Wāqīḍī had a tendency to ‘reshaping and the creation of narrative material’, and that this was by no means unique to him among early and mid-Abbasid era scholars. However, the degree of creativity exercised by akhbārī scholars is still much disputed. If this is an entirely invented ‘document’ then it is further evidence of the potential for a very considerable degree of creativity on the part of eighth and ninth century akhbārīs. Indeed, the entire story of the written agreement may be a later fiction. As Petersen observes, in its extant form the ‘document’ functions as a vivid representation of an encounter between two of the major participants in the first fitna, and an effective element in late eighth or early ninth-century Abbasid propaganda against their Umayyad precursors. In this, it resembles the large amount of purportedly ‘documentary’ material cited by traditionists about the first fitna: letters and sermons abound, alongside texts like the SAA. Some may be genuine, but the great majority were almost certainly invented purely to serve a narrative function.

The use of purported primary material—dialogue, public speech, letter or, as here, treaty-text—for narrative effect is a common feature of most pre-modern historiography. The vast bulk of the extant early Islamic historical tradition was composed in Abbasid Iraq in the late eighth and early-to-mid ninth centuries and it is clear that in its surviving form, this is history as court literature: it was composed to entertain, edify and, crucially, to argue. Both Ibn Saʿd and al-Wāqīḍī would have had motives for elaborating upon the venal basis of the Umayyads’ success with this document. Both were present in Baghdad at the court of al-Maʿmūn (and, in the case of Ibn Saʿd, his successors, al-Muʿtaṣim and al-Wāṭhiq), and both appear to have had sympathy with Hāshimite ideas about caliphal legitimacy. Petersen’s characterization of the two scholars as ‘pro-ʿAlid’ and ‘Muʿtazili’ in outlook and his model of regional ‘schools’ in historiography require some revision.
Nonetheless, it remains the case that they would appear to have had strong motives for the denigration of Muʾāwiya and his allies.¹⁰¹

7. There is also a third, middle position between authenticity and outright invention: a reasonably accurate memory of the composition of such a text may have been transmitted, making al-Wāqidi’s text an imaginative (and impressive) recreation of what such a document might have looked like, based on a greater or lesser knowledge of the original. Madelung has already noted the ‘dubious’ quality of the anecdotal evidence for the encounter between ʿī Amr and Muʾāwiya, while at the same time observing that in ‘substance’ all of the material is similar. For Madelung, this is a reason to trust the outline of events: ‘contemporary observers’ were ‘intrigued’.¹⁰²

With these seven points, we reach the current limits of reasonable certainty. However, in the opinion of this author, the balance of probability does lie against Petersen and with Lippert, Lecker and Duri, in favour of authenticity rather than not. It seems more likely that the short parallel phrase in the tradition derives from the ‘document’ rather than the other way around: the reformulation of the phrase in the tradition turns a neutral clause into a critical commentary on the motives of ʿī Amr and Muʾāwiya. Furthermore, its archaic form and style, the close parallels with the ‘Ṣiffin Arbitration Agreement’, the absence of any obvious anachronisms and the unusual ‘incorrect’ date are all important points in its favour. Against the possibility that the date is merely a scribal error, there is the argument that it would be an unusual one: the Arabic words for ‘six’ and ‘eight’ are not easily confused, even when unpointed (whereas, for example, ‘seven’ and ‘nine’ are). The absence of the text from the rest of the tradition when compared to the ‘Constitution of Medina’ and the ‘Ṣiffin Arbitration Agreement’ may be explained by its comparative unimportance compared to these texts, which involved the Prophet Muḥammad and the first Shiʿī Imam, ʿAlī, respectively.

Where does this leave the use of ‘documents’ in writing the history of early Islam? First, each text needs to be examined carefully on its own merits and in the context of other, similar texts and the wider tradition. Often, however, this will not be completely conclusive, as we have seen. Indeed, except where real confidence is possible, as with much of the ‘Constitution of Medina’, and the ‘Ṣiffin Arbitration Agreement’, it
is better, as I have argued elsewhere, to observe patterns of form and structure rather than to rely on the authenticity of any single ‘document’, let alone any specific feature of any one such a text.\textsuperscript{103} Our ‘document’, real or imagined, does conform to patterns found in other similar seventh century ‘documents’ of which we can be certain.

To put it another way, there is an identifiable evolution in the form and content of written political agreements in the literary sources between the seventh and the ninth centuries, against which this and other ‘documents’ can be tested. That such an evolution can be identified does suggest both a real tradition of political covenant and also the survival of real documents in some cases.\textsuperscript{104} Against the most sceptical readings of the tradition, it seems very likely indeed that at least some mid-to-late eighth- and ninth-century formulas for such agreements are authentic, and that, in some cases, much more than just the formulaic material is real.\textsuperscript{105} Some very early ‘documents’ do also appear to survive: as noted above, the ‘Constitution of Medina’ is one such authentic document; the ‘Ṣiffīn Arbitration Agreement’ is almost certainly another (the latter transmitted accurately by ʿUmar b. Saʿd, a key informant on our agreement between ʿAmr and Muʿāwiya). This author would cautiously add our pact to this list. Between them, these texts indicate that the written record of political contracts was an established practice among the early Muslims. They also suggest that the importance and development of ‘contract’ and ‘covenant’ in early Islamic religio-political thought and practice would repay further investigation.


8 See Wellhausen, The Arab Kingdom and Its Fall, trans. M.G. Weir (Calcutta 1927), 76, 135.

9 baynahum in Lippert’s ed.


11 Ibn Saʿd, Ṭabaqāt (Sachau), iv.2, xxvii–xxviii.

12 L. Caetani, Annali dell’Islam (Milan 1905–26), ix, 238, §327.

13 E. Petersen, ʿAlī and Muʿāwiya in the Early Arabic Tradition (Copenhagen 1964), 90: ‘The contract between Muʿāwiya and ʿAmr is given an entirely new semblance in epistolary form drawn up by ʿAmrʾs mawla Wardān, whereby ʿAmrʾs initiative is concretized; the two parties promise each other unconditional aid against ʿAmrʾs being promised Egypt.’

14 Lecker, ‘The Estates of ʿAmr b. al-ʿĀṣ’, 29, 30 and n. 61, where he notes the existence of the agreement, that it was made in Jerusalem and written by Wardān; A.A. Duri, ‘Jerusalem in the Early Islamic Period seventh–11th Centuries AD’, in K. Asali (ed.),
Jerusalem in History (Essex 1989), 108–9 and n. 52, where he notes, ‘Ibn Saʿd gives the text of this pact’.

15 Madelung, Succession, 196–7, and n. 246.

16 Since Ibn Saʿd’s work is extant only in later versions, it is not impossible (though unlikely) that the text is even later than 845. The transmitter of the text, al-Ḥārith b. Muhammad al-Tamimī died in 895. Furthermore, without seeing all the MSS, the possibility that it is later still cannot be completely discounted. The Sachau edition bases this section of the text on only one MS, ‘Wetzstein II, 349’: Ibn Saʿd, Ṭabaqāt (Sachau), iv.2, v ff. This is followed on the various MSS, see O. Loth, Die Classenbuch des Ibn Saʿd: Einleitende Untersuchungen über Authentie und Inhalt nach den handschriftlichen Überresten (Leipzig, 1869), 12ff., 38, 39; W. Ahlwardt, Verzeichniss der arabischen Handschriften von W. Ahlwardt Bd. 9, ‘Die Handschriften-Verzeichnisse königlichen Bibliothek zu Berlin Bd. 21’, 195–6, no. 9650 (Berlin, 1897); Ibn Saʿd, Ṭabaqāt (Sachau), esp. iii.1, xl–xlii; EI2, ‘Ibn Saʿd’ (J.W. Fück); F. Sezgin, Geschichte des arabischen Schrifttums. Band 1. Qurʾānwissenschaften, Hadith, Geschichte, Fiqh, Dogmatik, Mystik bis ca. 430 H. (Leiden 1967), 300-1.

17 See above, n. xx.

18 See above, n. xx.


21 Hoyland, Seeing Islam, 687ff.


26 That is, it is also different from the ‘subjective’ formula hāda kitāb min... li... common in the extant dispositive documents, which recognizes an agreement ‘in favour of’ (li) one of two parties: G. Khan, *Bills, Letters and Deeds: Arabic Papyri of the seventh to 11th Centuries* (Oxford 1993), 63–4.


30 See, e.g. the declaration of Yathrib as a haram in the ‘Constitution of Medina’ (Lecker, “Constitution”, 37, §49, 165ff.), the vow ‘under the tree’ at Q 48.18, and the famous pledges at the Ka’ba under Hārūn al-Rashīd (Marsham, *Rituals*, 220).

31 Lane, s.v. amāna; cf. Q 2.283, Q 4.58, Q 23.8, Q 70.32.

32 Q 33.72 (quoted above) and Q 2.286, Q 16.25, Q 24.54, Q 29.12–3 and Q 62.5; Lane, s.v.

33 See below, xx.

34 SAA, §1, ll. 9, 15.


For a discussion of the ‘primordial covenant’ in the Qurʾān and in later Islamic tradition, see Wadūd al-Qāḍī, *The Primordial Covenant and Human History in the Qurʾān*, ‘The Margaret Weyerhaeuser Jewett Chair of Arabic Occasional Papers, 2006’ (Beirut 2006).


40 Marsham, *Rituals*, 64.

41 Lecker, “*Constitution*”, 8, §18, §25, 9, §48, §54, §55.


43 E.g. *khalasū* at Q 12.80 (‘they conferred together’), *lahu mukhlišūn* at Q 2.139 (‘exclusively devoted to Him’, cf. Q 7.29 et al., ‘making religion pure for Him’); other instances relating more strictly to the related concepts of purity and exclusivity include: Q 2.94, Q 4.146, Q 6.139, Q 7.32, Q 16.66, Q 33.50, Q 38.46, Q 39.2, Q 39.3, Q 39.11, Q 39.14. ‘Election’ is another related field of meaning, e.g. Q 12.24 et al. For *naṣaḥa* and related terms: Q 7.21, 62, 68, 79, 93, Q 9.91, Q 11.34, Q 12.11, Q 28.12, Q 28.20.

44 Lecker, “*Constitution*”, 9, §46, 37, §46.


46 For amr al-nās, see SAA, §3. For an extensive discussion of the pre-Islamic and early Islamic meanings of amr and umūr, see M.M. Bravmann, ‘Heroic Motives in Early Arabic Literature’, *The Spiritual Background of Early Islam* (Leiden 1972), 39–63. *EF*, ‘Amr’ (S. Pines), is concerned with later philosophical and exegetical interpretations of the term.

47 See, ʿAbd al-Bāqī, s.v.

48 Q 3.19, Q 3.85, Q 5.3, Q 6.125, Q 9.74, Q 39.22, Q 49.17, Q 61.7.


50 *khadhl* and related terms are common in the pre-Islamic poetry, see A. Arazi and S. Masalha, *al-ʿIqd al-thamīn fī dawāwīn al-shuʿarāʾ al-sittā al-jāhiliyyīn* (Jerusalem 1999) s.v.
Q 8.24, Q 11.43, Q 34.54.


Marsham, Rituals, 100.

c Abd al-Baqī, s.v.

E.g. al-Minqarī, Waqaʿat Ṣifīn, 45–6.

Wellhausen, Arab Kingdom, 93–8.


c Abd al-Baqī, s.v.

taʿāwanā: Q 5.2 (in two places).


Hoyland, Seeing Islam, 690ff.

EI 2, ‘Umma’ (F. M. Denny).

See above, n. xx.

Lippert’s ed. baynahum.


It occurs in Ibn Ishāq’s preamble to the ‘Constitution of Medina’, but not in the ‘Constitution itself: Lecker, “Constitution”, 7. See further, Wakin, Function, passim; Marsham, Rituals, 238, 240. Khan, ‘Pre-Islamic Background’, 223, notes that the Arabic sharṭ may be derived from the Aramaic š’ṭar.

al-Yaʿqūbī, Taʾrīkh, 217.


Marsham, Rituals, 242.

See above, xx, and n. xx.

al-Ṭabarī, Taʾrīkh, i, 3233ff.; Wellhausen, Arab Kingdom, 93–7.

See above, n. xx.
73 Ibn Saʿd, Ṭabaqāt (ʿAbbās), iii, 32.

74 See, e.g. al-Minqārī, Wāqaʿat ʿṢifīn, 45–6; Abū Mikhna프/ al-Ṭabarī, Taʾrīkh, i, 3397, “When he had given Muʿāwiya the oath of allegiance to fight against ʿAlī b. Abī Ṭalīb, ʿAmr b. al-ʿĀṣ had made an agreement (kāna ṣalaḥa) with Muʿāwiya, that Egypt would be his while he lived, as an incentive (tuʾmatan)”. For the date of ʿṢifīn: Wellhausen, Arab Kingdom, 77–8 and 78, nn. 1, 2; Petersen, ʿAlī and Muʿāwiya, 10–11; EQ, ʿṢifīn, Battle of’ (M. M. Dakake). Caetani places his discussion of the ‘document’ s.a. 36/656-7, see above, n. xx.

75 Hinds, ʿṢifīn’, 115, §4, l. 9.

76 Wellhausen, Arab Kingdom, 83–90; Petersen, ʿAlī and Muʿāwiya, 10–11, 30–1, 36, 38–9, 86.

77 On the conquest of Egypt, see above, xx, and n. xx.

78 On the MSS, see above, n. xx.


80 Ibn al-Nadīm, Fihrīst, 111; EI2, ʿal-Wāqīdī’ (S. Leder).

81 al-Ṭabarī, Taʾrīkh, i, 3252–4; Sezgin, Geschichte, i, 286.

82 al-Ṭabarī, Taʾrīkh, i, 3252–3, ll. 17–3, 3253, ll. 8–12. As one might expect, the same material is repeated verbatim in Ibn al-Athīr, Taʾrīkh, iii, 274–6, but without the isnād.

83 al-Ṭabarī, Taʾrīkh, i, 3253–4.


85 al-Yaʾqūbī, Taʾrīkh, ii, 215; Ibn Aṭham, Kitāb al-Futūḥ, ii, 384. It is notable, in the light of other transmitters mentioned in the isnāds of parallel sources that al-Yaʾqūbī cites ʿĪsā b. Yazīd b. Daʾb, Abū Mundhir al-Kalbī and ʿal-Wāqīdī from Mūsā b. ʿUqba’ among his sources at the beginning of the second part of his Taʾrīkh (ii, 3–4). On these traditionists see nn. xx.
86 Ibn ʿAsākir, Taʾrīkh, xlvi, 168 (Ibrāhīm b. al-Ḥusayn from ʿAbd Allāh b. ʿUmar from ʿAmr b. Muhammad from al-Walīd al-Balkhī).

87 al-Balādhurī, Ansāb (Beirut 1974), ii, 286. Al-Balādhurī notes of a later element of this report, ʿHishām b. ʿAmār used to say, ʿThis is a forged report (ḥadīth maṣnūʿ).ʾ On Ibn Daʾb, see Madelung, Succession, 197, note 246, citing al-Balādhurī, Ansāb (Beirut 1974), ii, 289, 310.


89 al-Minqārī, Waqaʾat Ṣīffīn, 42.

90 Pseudo-Ibn Qutayba, al-Imāma waʾl-siyāsa, i, 87–8: wa-kāyada kull wāḥiduhuma ṣāḥībahu; he does not cite the ‘document’.

91 Ibn ʿAsākir, Taʾrīkh, xlvi, 167. This is most likely Hishām Abū Mundhir b. al-Kalbī (d. 819 or 821), who appears in the list of al-Yaʾqūbīʾs sources alongside al-Wāqīdī, Mūsā b. ʿUqba and ʿĪsā b. Yazīd b. Daʾb (above, n. xx) and who was also an important source for al-Ṭabarīʾs account of the fitna: e.g. al-Ṭabarī, Taʾrīkh, i, 3235. He is often referred to both as al-Kalbī and Ibn al-Kalbī. The early traditionist, Abū Janāb al-Kalbī (fl. c. 700), who transmitted material on Ṣīffīn, is unlikely because he is a little early for such a synthetic account: Wellhausen, Arab Kingdom, 90; Petersen, ʿAlī and Muʿāwiyah, 199.

92 al-Balādhurī, Ansāb (Beirut 1974), ii, 288.

93 Petersen, ʿAlī and Muʿāwiyah, 67ff. (although Petersen assumes that the ‘document’ itself is also later invective); Madelung, Succession, 196–7.

94 al-Yaʾqūbī, Taʾrīkh, 217.

95 al-Yaʾqūbī, Taʾrīkh, 217.

96 See above, xx.

97 Hinds, ʿṢīffīnʾ, 103.


E.g. ʿUthmān’s purported letter to the Muslims assembled for the ḥajj in 36/656: al-Ṭabarī, Taʾrīkh, i, 3040–5; R. S. Humphreys, ‘Qurʾānic Myth and Narrative Structure in Early Islamic Historiography’, in F. M. Clover and R. S. Humphreys (eds), Tradition and Innovation in Late Antiquity (Madison 1989), 271–90.


See above, n. xx.

Marsham, Rituals, 151–4.
