

EXECUTIVE ASPECT OF THE MUSLIM CONCEPT OF SOVEREIGNTY A CRITICAL ANALYSIS ON UMAR'S ASSURANCE OF *AMAN* TO THE PEOPLE OF AELIA

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ABSTRACT: *Umar's Assurance of Amān (Safety) to the people of Aelia was creatively initiated by Umar al-Khattab purposely to determine future relationships among the people of the region. This article attempts to investigate the executive aspect of the Muslim concept of sovereignty in light of this historical and remarkable document; and how Umar implemented executive aspect of the Muslim sovereignty over the people of the "newly-conquered" region of Aelia. This article also endeavours to examine the responses of local inhabitants to the new Muslim rulers. It concludes that Umar's Assurance of Amān has remarkable outlines regarding the implementation of concept of sovereignty over the inhabitants of the region. While, this Assurance emphasises on the role of the highest authority, it has clearly defined significant limits and also highlights the guaranteed rights of the people regardless of their religions, races, colours and background.*

KEYWORDS: *Umar's Assurance of Safety, Islamicjerusalem, sovereignty, executive aspects, multi-religious communities.*

Introduction

This article attempts to investigate the executive aspect of the Muslim concept of sovereignty in light of a historical and remarkable document, namely Umar's Assurance of *Amān* (Safety) to the people of Aelia. This document was creatively initiated by

Umar al-Khattab (13-23 AH/ 634-644 CE), the second Muslim Caliph during the first Muslim conquest of IslamicJerusalem or also known as Aelia, purposely to determine future relationships among the people of the region. Since Umar's Assurance was in the heart of the Muslim government during that time, it seems vital for the researchers to investigate how Umar implemented executive aspect of the Muslim sovereignty over the people of the "newly-conquered" region of Aelia. Indeed, the executive body of the Muslim government represents an essential part within the societal affairs and organisation of the region. This article also endeavours to examine the responses of local inhabitants to the new Muslim rulers. This is very exciting as the inhabitants of the region consist of multiracial and multireligious communities, namely Christians, Jews and others with Christians were still remaining the majority.

An Analysis on the First Part of Umar's Assurance of Safety

The researchers argue that the Umar's Assurance of safety to the people of Aelia implicitly presented the basic understanding of the Muslim concept of executive sovereignty over the people.

In the name of God, the most Merciful, the most Compassionate. This is the assurance of safety (*Amān*) which the servant of God (the second Caliph) Umar (Ibn al-Khattāb), the Commander of the Faithful, has granted to the people of Aelia. He has granted them an assurance of safety for their lives and possessions, their churches and crosses; the sick and the healthy of the City (to every one without exceptions), and for the rest of its religious community... (al-Tabarī 1997: (2) 449, El-Awaisi 2005: 72)

It can be seen that the executive sovereignty of Umar over the people of IslamicJerusalem has been implicitly highlighted in the Assurance. On the one hand, the word *Amīr al-Mu'minīn* (Commander of the Faithful) indicated that he had authority over the Muslims as he was the Caliph for the whole of the Muslim territories during that time. Thus, he had the right to implement the concept of sovereignty over all Muslims since he was the successor of the Prophet as mentioned in the Qur'an: "O *believers*

obey Allāh and obey the Messenger and those in authority among you..." (4:59).

On the other hand, the researchers found that there was also an indication that he had sovereignty over the non-Muslim inhabitants of Islamic Jerusalem. This can be seen from the use of the word "*dātā*" (granted), which refers to Umar. Although this is only one short word, the researchers argue that it is imbued with deep meaning. This is due to the fact that only the one with authority could make this assurance meaningful. In other words, if the Assurance had been given during that time by other individuals such as Heraclius (610-641 CE/ 13 BH-20 AH) or Sophronius, it will not have been effective because they no longer had sovereignty over the people of Aelia. In short, Umar had established his sovereignty over the non-Muslims of Islamic Jerusalem by virtue of the Assurance that had been accepted by them.¹

Furthermore, it can be found that Umar used the word "*Abd Allāh*" (servant of God) to address himself. Explicitly, this can be understood how humble Umar was as an individual. His simplicity and humility of appearance and manners could also be seen during his arrival at the Walled City of Islamic Jerusalem to receive in person the submission of the City (Abū Munshār 2003: 135). However, the researchers argue that the word could also bear a meaning beyond the usual interpretation. It could possibly show the foundation of the Muslim executive concept of sovereignty. On the one hand, Umar could possibly intend to emphasise the importance of the principle of equality in accordance with the core Muslim teachings. Accordingly, although Umar had executive power over the people of Islamic Jerusalem, he himself and his subjects had equal rights before the law. By the same token, while the executive had the rights to execute jurisdiction over his subjects, the people of Islamic Jerusalem also had their rights that needed to be respected such as rights of expression, citizenship rights, freedom of beliefs and basic human rights.

On the other hand, the Assurance could also indicate that the sovereignty that Umar had was executive sovereignty which could also be defined as limited sovereignty (Zaydān 1970: 25). What, then, are the things that could limit the sovereignty of Umar over the people of Aelia? The researchers argue that it is solely the Muslim core sources, namely the Qur'an and Sunnah, that could limit the sovereignty possessed by a Muslim ruler such as Umar. In other words, if there is anything in the Assurance, which is not in accordance with the core Muslim teachings, it would be considered ineligible. The researchers could not find a single thing within the assurance that goes against the core Muslim sources. Even a historical studies on the various versions of Umar's Assurance, conducted by Abu-Munshar, proved that the authentic contents throughout the assurance were appropriately fitting the theoretical framework of the Muslim treatment of others except for the exclusion of Jews (2003 :136, 147-148, 160). Although al-Tabarī's (d. 310 AH/ 922 CE) version includes the exclusion of the Jews from residence in the region, El-Awaisi's analytical and critical study has proved that, this condition is indefensible, "...these are the products of later historical periods, resulting from socio-political circumstances that differed greatly from the time of the first Muslim conquest of Islamicjerusalem." (El-Awaisi 2005: 103).

Thus, the researchers agree with El-Awaisi (2005: 119) who argues, that exclusion besides not being proven historically is also unacceptable to the core Muslim teachings. This is because this type of exclusiveness contradicts the foundations of the inclusive vision of Islamicjerusalem, which is grounded in the Qur'an. For instance, the Qur'an relates, "We delivered him (Abraham) and Lūṭ (and directed them) to the land that We have placed Barakah for all peoples." (21:69-71). Undoubtedly this *Barakah* here is not exclusively restricted to one nation or the Muslim nations only; it includes all nations inclusively regardless of their race, belief and colour. The content of the Assurance also seems justifiable as it has been witnessed by four companions of Prophet Muhammad, namely, Khālīd Ibn al-Walīd, Mu'āwiyah Ibn Abī Sufyān, 'Amr Ibn al-'Ās and 'Abd al-Rahmān Ibn 'Awf, and many others who would have been present and did not object to its content (al-Tabarī 1997: (2)

449). If there was any article against the core Muslim teachings, it would have been objected by the Prophet's companions or other Muslims. Especially since Muslims during that time were known for their bravery in correcting anything that goes against the Muslim core sources, even if this came from the ruler. For instance, Umar himself was corrected by an ordinary Muslim woman when he suggested to his people not to inflate in paying *mabr* (dowry). Instantaneously, the woman reminded him of a Qur'ānic verse (4:20), and Umar immediately admitted his mistake after deliberating the woman's argument. Therefore, it can be concluded that the basic understanding of the Muslim concept of sovereignty over the people of Islamic Jerusalem could possibly be derived from the Umar's Assurance of Safety to the people of Aelia.

An Analysis on the Second Part of Umar's Assurance of Safety

In addition, there is another significant part of the Assurance that shows how the Muslim sovereign approached people from other backgrounds. "*He has granted them an Assurance of safety for their lives and possessions, their churches and crosses; the sick and the healthy of the City (to every one without exception), and for the rest of its religious community...*" (al-Tabarī 1997: (2) 449, El-Awaisi 2005: 72) This kind of statement emphasises how Umar appreciated the different lives of others particularly those of the multi-religious communities. The researchers argue that his attitude towards others was not only a manifestation of his personal approach, but was also strongly influenced and guided by the core Muslim teachings. This is nearly similar to the Prophet Muhammad's approach in establishing a relationship with the Jews in Yathrib (Madīnah). Ibn Hishām (d. 218 AH/ 833 CE) (1999: (2) 108) cites the early part of the Madīnah Constitution:

In the name of Allāh, the most compassionate and merciful. This is a pledge given by Muhammad to the believers and Muslims of Quraysh, Yathrib, and those who followed them, joined them, and fought with them...

Apparently the Jews in Madīnah did accept the constitution as they were able to freely practise their religious rituals in Madīnah. Implicitly, the Muslim rulers' approach in dealing with others whom they had conquered can highlight the objective behind having their sovereignty over them. The researchers argue that the Muslim objective in conquering Islamicjerusalem and obtaining sovereignty over its people was to ensure their safety and to inculcate justice among them. In other words, the power to rule over the people of Islamicjerusalem, obtained through the conquest, was purposely utilised to return their rights to them and develop a secure environment for their lives.

The first Muslim conquest of Islamicjerusalem was remarkable in that it witnessed notable changes with regard to the implementation of the Muslim concept of sovereignty. The researcher agrees with Fātimatuzzahrā' Abd Rahmān's argument that the change occurring in Islamicjerusalem regarding the sovereignty during that time can be described as radical (Abd Rahmān 2004: 40-41). This was due to the fact that the sovereignty held by the Byzantine Emperor was transferred to the Muslims, who were committed to realising the Muslim concept of sovereignty. One can argue; to what extent did the inhabitants of Islamicjerusalem really need to be governed by Muslim sovereignty? Why did Muslims strive to change the existing sovereign and introduce their concept of sovereignty? What were the benefits to the people in this change?

It is important for the researchers to briefly examine the communal situation of Islamicjerusalem under the Byzantine rulings in order to discover whether the people really needed to change their sovereign. Aelia had been ruled by the Romans and then Byzantines since 63 BCE up until the Muslim conquest. According to Runciman (1991: 6), under the rule of the Byzantines, Christians had become the majority group among the communities in Islamicjerusalem. This situation had come about due to the policy of the Byzantine Emperors who had attempted to foster Christianity throughout their territory. Goddard (2000: 12) claims that "*Part of the reason for Constantine's decision to accept*

Christianity himself was his hope that the Christian religion might serve as a focus for unity and thus bring about renewed strength within the empire." However, the Christianity that was employed to intentionally unify the people of Islamic Jerusalem did not work as expected. Maher Abu-Munshar (2003: 125) quotes Abū Iyān's claim that, even though they had a similar religion, they were divided into various groups and sects due to "*instability in the religious life of the Christians in Aelia.*" This instability, which came about due to disagreements between the Monophysites and the Greek-Orthodox, prompted the Byzantine Emperors such as Heraclius to use their power in imposing their own beliefs over all the Christians in the region. Runciman (1991: 6) states that Christianity had been forcefully utilised as a "*unifying force to bind all the subjects of the region to the government*". Unfortunately, this aggressive approach could not resolve the problem but only caused more tensions and pressures.

On the other hand, under the Byzantine rulers, the Jews had also experienced persecution and exclusion. Wilkinson (2002: 94-95, Brown 1989: 174) claims that this can be seen from the Byzantine policies towards the Jewish communities based on Hadrian's decree of expelling and discriminating the Jews. Goddard (2000: 8) elaborates on this situation:

... at the start of the fourth century, Christianity became the official religion of the Roman empire, the power of the state also began to be used against Jews, so that the burning of synagogues was sanctioned and the forced conversion of Jews to Christianity was legitimised.

In short, the situation for the inhabitants of Islamic Jerusalem was one full of conflict, clashes and disagreements, accompanied by maltreatment for those who did not follow the empire's beliefs (Abu-Munshar 2003: 126). The researchers argue that the intolerant approach employed by the Byzantines affected the existence of others, who suffered greatly from the forceful and exclusive government policy.

In addition, the researchers argue that the viciousness of the Byzantine emperors may have been caused by their understanding

which embraced the absolutist concept of sovereignty. They followed the concept that the Emperor was the highest reference to rule and he could decide on every single thing without limitation. Hence, it seems reasonable to accept Umar's statement when he put the Byzantines' position at the same level with the robbers since the Byzantines had occupied the land and confiscated the people's wealth, in addition to denying them their rights and regulating persecution. Therefore, in the text of Umar's Assurance itself, there is a clear condition that the inhabitants of Aelia should expel the Byzantines and robbers from the region. "*The people of Aelia... must expel the Romans (Byzantines) and the robbers.*" (al-Tabarī 1997: (2) 449, El-Awaisi 2005: 73). El-Awaisi (2005: 78) argues that the common reason which had driven Umar to put the Byzantines and robbers in a similar category was that they, the Byzantines, had occupied the land and appropriated its wealth, and the robbers had stolen people's belongings. In short, the inhabitants of Aelia needed a radical change, that is, the implementation of a more appropriate and just concept of sovereignty, far from tyrannical Byzantine oppression, leading to a peaceful environment and a harmonious situation. The researcher agrees with Fātimatuzzahrā' Abd Rahmān (2004: 41) that the Muslims' serious efforts to bring about a change was justifiable, striving as they did, to liberate the people from total obedience being treated with consideration in the Muslim executive sovereignty, that was based on creative inclusive vision and guided by core Muslim teachings. Armstrong (1997b: 18-19) argues that, "*From the start, the Muslims developed an inclusive vision of Jerusalem which did not deny the presence and devotion of others, but respected their rights and celebrated plurality and co-existence.*" Therefore, the researchers argue that the inhabitants of IslamicJerusalem were in need of liberation from their oppressors and persecutions that denied them fundamental human rights. They were in need for different rulers who would govern them with an inclusive vision.

Furthermore, the researchers argue that possessing power was of crucial importance for implementing the inclusive vision of IslamicJerusalem. This necessitated the establishment of sovereignty over the people with in depth understanding of the

vision. Although one could argue that expelling the Byzantines from the region was not totally in line with the Muslim inclusive vision, it seems to the researchers that this kind of decision was reasonable as the inclusiveness of Islamic Jerusalem could never make a compromise with oppressors and thieves. El-Awaisi (2005: 21) argues that both groups needed to be expelled since their presence would cause instability and problems within the communities in Aelia. These problems might lead to negative implications for the efforts to establish peace and stability within the region. Moreover, Muslims gave an option to the people of Aelia, either to stay in the region under Muslim sovereignty or to leave with the Byzantines away from Muslim rule. Muslims did not intend to force people to live under their sovereignty; they even gave them a fair choice in making their decision. The Muslim attitudes towards those who opted to depart with the Byzantines could be described as "wonderful" since they attempted to make them safe from any kind of aggression along their way to their destination outside the region. *"As for those who will leave, their lives and possessions shall be safeguarded until they reach their place of safety..."* (al-Tabarī 1997: (2) 449).

In addition, the researchers argue that implementing the Muslim concept of sovereignty was rather important in Islamic Jerusalem in that situation, since this could play an influential role in enhancing efforts to reshape the foundation of the future community and provide defensible protection for people. Furthermore, the researchers argue that the final part of the Assurance highlights a distinguished feature of the Muslim concept of sovereignty. *"The contents of this Assurance of safety are under the covenant of Allāh, are the responsibilities of His Prophet, of the Caliphs and of the faithful if (the people of Aelia) pay the tax according to their obligations ..."* (al-Tabarī 1997: (2) 449, El-Awaisi 2005: 73-74). In other words, the contents of the Assurance were under the protection of Allāh. As such, all other parties mentioned, which include the Prophet, the Caliphs and the faithful are responsible for ensuring that all its conditions are respected and applied effectively.

Implicitly, all parties have their responsibilities to implement the Muslim concept of sovereignty. While, the Muslim rulers were responsible for executing command and making their subjects safe, the people had responsibilities for utilising their controlling rights to ensure that the rules, terms and conditions were well-followed and implemented. The researchers argue that Muslim rulers' strong and continuous commitment to preserve the presence of others in IslamicJerusalem was a significant impact of this final part of the Assurance.

Conclusion

From the perusal of the above analysis, the researchers conclude that Umar's Assurance of Amān (Safety) to the people of Aelia has remarkable outlines regarding the implementation of concept of sovereignty over the inhabitants of the region. While, this Assurance emphasises on the role of the highest authority, it has clearly defined significant limits and also highlights the guaranteed rights of the people regardless of their religions, races, colours and background. This has undoubtedly shown why the people of Aelia's responses were encouraging towards the newly-coming "conquerors", far from what might be expected by them before the first Muslim conquest of the region.

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¹ The researchers have not found any historical account that reports any kind of resistance from the people of Aelia against that Assurance of safety.