

THE CONSTITUTION OF MEDINA

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I

There exists a written contract known as 'the Constitution of Medina', which the Prophet Muḥammad exchanged with the people of Medina after the *hijra*. The original document of the Constitution is not extant now. It is preserved in *Kitāb Sīra Rasūl Allāh* written by Ibn Ishāq (d. 151 A. H. In the followings, year of one's death is indicated by the Muslim calender), which was compiled and annotated by Ibn Hishām (d. 218).⁽¹⁾ Although most of the leading Muslim historians like al-Ṭabarī and the scholars in *ḥadīth* such as al-Bukhārī did not record the full text of the Constitution in their big volumes, most of the modern scholars did never suspect the authenticity of the text. W. M Watt suggests, however, that the text of Ibn Ishāq might be formed of some different dated documents.⁽²⁾ R. B. Serjeant assumes again that the text is a set of eight documents of different dates.⁽³⁾ On the basis of his field works in South Arabia, he indicates that the contracts made among the tribes there have many points of similarities to the text. Although he states that his work is still preliminary one, it includes many valuable suggestions.

It is J. Shimada of Chūō University in Tokyo who points out that beside the text of Ibn Ishāq there exists another version of the text.⁽⁴⁾ It is recorded in *Kitāb al-Amwāl* by Abū 'Ubayd (d. 224).⁽⁵⁾ Now, let us suppose that the text of Ibn Ishāq is the text A and that of Abū 'Ubayd is the text B. Shimada concludes that the texts A and B are the same in substance. Some stipulations of the text A, however, are left out in the text B. It is true that those stipulations are not essential parts of the Constitution, but the fact of dropping out of certain parts of it in the text B may mean that the text of the Constitution is the composite one. And it should be noted that the text B contains its *isnād* which is completely wanting in the text A.

M. Hamidullah compiled a book of political and diplomatic documents

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of Muḥammad and his successors which had been preserved in various books.⁽⁶⁾ As a matter of course, the text of the Constitution is included in his book. For revising the text, Hamidullah refers to another version recorded in *Kitāb al-Amwāl* by Ibn Zanjūyah (d. 248). Let it be supposed that the third version of the text is the text C. As the author will make it clear in the followings, the texts B and C are of the same route. Every modern scholar like Wellhausen, Caetani, Wensinck and upto Watt and Serjeant discussed the Constitution basing only the text A. Even Shimada and Hamidullah who point out the existence of the texts B and C never pose any new problems on the Constitution. In this paper, the author may add some new comments on it using the three versions of the text and others.

The text will not be fully translated in this paper. The author will quote the translation by Watt with necessary revisions. As for the numbering of of the stipulations, the author will follow Watt again.

II

In principle, each *ḥadīth* is composed of its *isnād* and its *matn*. The text A does not show, however, its *isnād*. So every modern scholar except Shimada discussed the Constitution being complete ignorant of its *isnād*. The *isnād* of the text B is as follows; 1) Ibn Shihāb al-Zuhrī (d. 124); 2) ‘Uqayl b. Khālīd (d. ?); 3) al-Layth b. Sa’d (d. 175); 4) Yaḥyā b. ‘Abd Allāh b. Bukayr (d. ?) and ‘Abd Allāh b. Ṣāliḥ (d. 223). It is needless to say about al-Zuhrī of 1), because he was a famous scholar who adjusted many *ḥadīths* on the life of Muḥammad, and his name is listed in the *Encyclopaedia of Islam*. According to Ibn Sa’d (d. 230),⁽⁷⁾ ‘Uqayl of 2) was a contemporary of al-Zuhrī. al-Ṭabarī quotes ‘Uqayl once in the *isnād* of a *ḥadīth* originated from al-Zuhrī. We may suppose that he might be a person who took memoranda from the lectures of al-Zuhrī. al-Layth of 3) was also a famous scholar whose biographies are recorded in various books. As for Yaḥyā of 4), any compiled biographies of scholars relate nothing to him. al-Ṭabarī quotes him once in the *isnād* of a *ḥadīth* originated from al-Layth. He might be a scribe of copies of al-Layth’s books. ‘Abd Allāh of 4) was a scholar who had studied under al-Layth and was a scribe of copies of his teacher’s works.⁽⁸⁾ As a conclusion, it might be supposed that the text B would be transcribed by Abū ‘Ubayd in his *Kitāb al-Amwāl* from the manuscripts of al-Layth’s work which was based on ‘Uqayl’s

memoranda of al-Zuhrī's lectures. Abū 'Ubayd recorded the text in his another book which is lost now but from which the text was quoted by a scholar of the Mamlūk Period.⁽⁹⁾

Kitāb al-Amwāl of Ibn Zanjūyah which contains the text C has not yet published and the author has not investigated the manuscripts of the book which are preserved at Burdur in Turkey. The title of the book was not listed in the *Fihrist* of al-Nadīm (d. 376) and every modern bibliographer of Islamic studies neglects the book. According to Hamidullah who investigated the manuscripts of the book, the text C contains its *isnād* upto al-Zuhrī. Hamidullah does not introduce, however, the names of transferrers from al-Zuhrī to Ibn Zanjūyah. As for Ibn Zanjūyah himself, any classical scholars in biographies do not relate his career. al-'Asqalānī of Egypt (d. 777), a much later scholar, says, however, that Ibn Zanjūyah was a scholar who collected *ḥadīths* from al-Layth and Abū 'Ubayd.⁽¹⁰⁾ If it is true, the text C is supposed to be transcribed from the text B. In fact, according to the Hamidullah's revision of the text, the contents of the texts B and C are almost the same with a little differences in terms and clauses.

Ibn Sayyid al-Nās (d. 743), a historian of the Mamlūk Period, wrote a biography of Muḥammad.⁽¹¹⁾ In his book, after quoting the text A from Ibn Ishāq, he relates that the same text was recorded by Ibn Abī Khaythama (d. 279). It is probable that the text of the Constitution was included in the *Ta'rikh* of Ibn Abī Khaythama which was already lost but might be regarded as an authoritative history at that time.⁽¹²⁾ Now, let us suppose that the missing text of Ibn Abī Khaythama is the text D. According to Ibn Sayyid al-Nās, the text D contained the following *isnād*; 1) Kathīr b. 'Abd Allāh b. 'Amr from his father and then from his grandfather; 2) 'Īsā b. Yūnus (d. 187); 3) Aḥmad b. Janāb abū al-Walīd (d. ?). 'Īsā of 2) was, according to al-'Asqalānī, a scholar in *ḥadīth* of a little younger generation than Ibn Ishāq. As for Aḥmad of 3), no biography of him is left to us. al-Ṭabarī quotes him once. He might be a scribe of copies of 'Īsā's work. The text D would be transcribed by Ibn Abī Khaythama from the work of 'Īsā b. Yūnus. 'Īsā got the text from Kathīr of 1), but no information about him and his father, 'Abd Allāh, left to us. Some *ḥadīths* with *isnād* from Kathīr's grandfather to Kathīr himself are recorded by al-Ṭabarī and al-Wāqīdī (d. 208). As for 'Amr, the grandfather of Kathīr, al-Ṭabarī indicates him under the name of 'Amr b. 'Awf al-Muzanī (a man from the Muzayna tribe). al-Wāqīdī introduces him in an episode related to Muḥam-

mad's expedition to Tabūk as al-Muzanī again.⁽¹³⁾ Ibn Sa'd lists him in volume four of his big *al-Ṭabaqāt al-Kubrā*, but not in volume three which is a collection of lives of the participants in the battle of Badr. In this brief biography, 'Amr was a person who was a confederate of Banū 'Āmir b. Lu'ayy from Yaman. A note of a *ḥadīth*, which have a *isnād* from 'Amr to al-Zuhrī and is recorded in the *Maghāzī* by Mūsā b. 'Uqba (d. 141), introduces 'Amr as a confederate of Banū 'Āmir and a participant in the battle of Badr.⁽¹⁴⁾ The fact that the scholars in the later generations do not agree on the career of 'Amr means that he was not so influential a person though he was a companion of Muḥammad. It is a fact that some *ḥadīths* handed down from 'Amr to his grandson were enrolled in books of historians in some occasions. However, it might be also true that none of the historians who enrolled these in their books regarded the *isnād* as the first class one. Anyway, 'Amr did not leave any important *ḥadīth* concerning the politics of Muḥammad except one concerning the Constitution.

Now, we have four kinds of the text of the Constitution. The text A has its *matn* but not its *isnād*. The text B has the *matn* and the *isnād* through al-Zuhrī. But we can never know from where al-Zuhrī got the text. The text C has almost the same *matn* as the one of the text B, and may have the same *isnād* as of the text B. The text D has the *isnād* different completely from the texts B and C but loses its *matn*. Ibn Sayyid al-Nās says that its *matn* was the same as that of the text A. He never refers, however, to the text B or C or others, so we have no way to know whether the text D was exactly the same as the text A, or the former was a little different from the latter in the same way as the texts B and C are a little different from the text A.

III

Being different from the views of most of the modern scholars, Ibn Ishāq was not the only man who recorded the text of the Constitution, and the *isnād* of the text was not lost. Every modern scholar considers that the Constitution is a very valuable historical material through which one could gain a better understanding of the socio-political structure of the emerging Islamic state. However, as mentioned above, classical Muslim historians like al-Ṭabarī and scholars in *ḥadīth* did not enroll the full text of the Constitution in their books. Most of these scholars quote various *ḥadīths* from the *Sīra* by Ibn

Ishāq and from works by al-Layth who preserved the text B. Moreover, we have already seen that some *ḥadīths* transmitted through the same *isnād* as the text D were also quoted by Muslim historians. So, it would be almost impossible to suppose that these scholars did not know the *ḥadīths* preserving the full text of the Constitution. Knowing these, they must have rejected these as unreliable *ḥadīths*. Most of these scholars indicate, however, some parts of the Constitution.

At the end of the chapter for the second year of his big chronicle, al-Ṭabarī says as follows; “someone says that in this year the Messenger of God wrote (a document) concerning on the blood-money (*al-ma‘āqil*). (The document) was hung on his sword (*kāna mu‘allaqan bi-sayfi-hi*).”⁽¹⁵⁾ When al-Ṭabarī wrote this description, he might take a part of the Constitution into consideration. Because, one of the most important parts of the Constitution is the provisions referring to the ransoms of captives and the blood-money being among *anṣār* and *muhājirūn*. al-Ṭabarī closes, however, his eyes to the full text of the Constitution, and ignores the *isnād* of the *ḥadīth*.

The description that (the document) was hung (or was deposited) on his sword is very interesting. As a note on this al-Ṭabarī’s account, Caetani introduces such a *ḥadīth* that ‘Alī kept an important document made by Muḥammad in the sheath of his sword.⁽¹⁶⁾ Without referring to the account of al-Ṭabarī nor to the note by Caetani, Serjeant mentions the document which ‘Alī kept, and points out that all the *al-Ṣiḥāḥ al-Sitta* contain such *ḥadīths*. It can be supposed that these *ḥadīths* might be well-known among the scholars at the time of al-Ṭabarī. And then it can also be supposed that al-Ṭabarī described above-mentioned account knowing such *ḥadīths*. He must have been aware of the importance of the document. According to the field investigations in South Arabia by Serjeant, there are such customs that a person who signed a contract between tribes keeps it in the sheath of his sword. Such customs may inherit the traditions of the time of Muḥammad or of the time before.

In *al-Bidāya wa al-Nihāya*, Ibn Kathīr quotes the text A from Ibn Ishāq and mentions text B.⁽¹⁷⁾ Before quoting the text, Ibn Kathīr introduces various brief *ḥadīths* concerning the Constitution through *al-Ṣiḥāḥ al-Sitta* and other collections of *ḥadīths*. One of them says as follows; “The Prophet wrote a document between the *anṣār* and the *muhājirūn* with such contents that they paid their blood-money and ransomed their captives with uprightness and

justice among Muslims.” The document indicated in the above account must have been a part of the Constitution. Another *ḥadīth* which is quoted by Ibn Kathīr through *al-Jāmi’ al-Ṣaḥīḥ* by Muslim says as follows; “The Prophet wrote that each group (*baṭn*) has its blood-money.” This indicates again a part of the Constitution. Other brief descriptions concerning the Constitution in the books by al-Balādhurī, al-Wāqīdī and Ibn al-Athīr have been investigated by Serjeant. It should be noted that all these *ḥadīths* indicate only some parts of the Constitution, not the full text. This fact may mean that every scholar that enrolled these brief *ḥadīths* concerning parts of the Constitution might reject the *ḥadīths* as unreliable which preserved the text A or B. They might have supposed that the texts A and B were composed of various documents of various dates as Watt and Serjeant did.

IV

Several stipulations of the same contents are repeated in the text of the Constitution. Through this fact, Watt regards the text as a composited one. Serjeant pays his attention to the fact that the form of the text is similar to that of contracts made among the present day tribes of South Arabia. He points out that several definite phrases which close contracts are found in the text of the Constitution. As mentioned above, both Watt and Serjeant have examined only the text A. After the examination of the texts B and C, however, the same may be said. In the followings, the present author will investigate the contents of the text assuming that it is composed of several differently dated documents.

In the text, stipulations from 1) to 23) are related each other. This part starts with the following preface; “In the name of God, the Merciful, the Compassionate! This is a writing of Muḥammad, the Prophet, between the believers and Muslims from Quraysh and the people of Yathrib and those who follow them and attached to them and are related to them and who crusade with them.” And this part colses with the following phrase; “Wherever there is anything about which you differ, it is to be referred to God and to Muḥammad (the Messenger).” According to Serjeant, the last phrase is the same in essence as the definite closing phrase of contracts made by present day tribes. Everyone may agree to the opinion that the above-mentioned phrase is similar to the closing phrase of a document. Serjeant supposes, furthermore, that

this part is composed of two documents. According to him, the preface and the stipulations 1)–19) compose one document and the stipulations 20)–23) might be added later. 19) ends with the followings; “The God-fearing believers are under the best and most correct guidance.” The author hesitates to agree to the opinion that this phrase is a definite closing phrase. However, the characteristics of the contents of 20)–23) differ from those of 1)–19). So, the author will agree to the opinion that 1)–23) should be divided into two parts. Let us suppose the preface and the stipulations 1)–19) as the document I.

The contents of the document I are the regulations concerning the ransoms of the captives and the payment of the blood-money with additions of general principles which the believers should observe. 1) is as follows; “They compose a single *umma* distinct from other peoples.” In spite of later developments of the concept of *umma* in the field of Islamic political theories, this stipulation may have no other meaning than a suffix of the preface. 2) is as follows; “The migrants of Quraysh, according to their former condition, pay jointly the blood-money between them, and they (as a group) ransom their captive(s), (doing so) with their uprightness and justice between the believers.” 3)–10) regulate that each of eight groups of the people of Medina is responsible for paying the blood-money and each sub-group of each group is responsible for ransoming their captives.

As for the eight groups of the people of Medina, the characteristics of them have already been investigated by the author.⁽¹⁸⁾ His conclusion is as follows. These groups were not the substantial social institutions within the framework of which people carried out their daily social lives. The people of Medina had repeated civil wars, and in the course of them, many social groups had once been formed and then scattered. Their claims and debts of blood-money had become deeper and deeper, but it was the normal condition in Medina in those days that the social units for paying the blood-money and for ransoming the captives were mobile. The mediation of long continued civil wars should mean the liquidation of the blood-money. For the liquidation, however, it should be necessary to set up the units for payments. Thus, the eight groups of the document I were set up. These were tentative groups for an account book of the liquidation. It is true that through the life of Muḥammad in Medina, there were no cases in which someone acted as a elected or inherited chief of one of these eight groups and there might not exist any bodies of

government for each group.

The preface and 1)–10) are the documentation of such resolution. It had to be the believers of Medina who resolved so leadingly. It is true that the preface of the document I refers not only to the believers but also to “those who follow them and so and so.” However, 11)–19), being not separate from 1)–10), are the regulations referring only to believers except the 16). So, we may suppose that the persons who agreed to the contents of the document I and signed were mostly the believers of Medina, as well as Muḥammad himself and *muhājirūn*.

We have not yet found the date of the document I. al-Ṭabarī includes his description of the writing of Muḥammad on the blood-money in the chapter for the second year after the *hijra*. Although it may be wondered that he knew the exact date of this writing, his dating might be correct. Because the most important reason for the believers of Medina to invite Muḥammad might be to let him mediate the civil wars and through his mediation to liquidate the blood-money, we can suppose that the documentation of the liquidation might be made in early stage after the *hijra*. In this stage, the population of the believers was still very small.⁽¹⁹⁾ So, it becomes true that the document I was a contract agreed and signed by members of a minority group of the society. 3)–10) bind, however, not only believers but also unbelievers in case of paying the blood-money and ransoming their captives, and it may also be supposed that all of ‘Arabs of Medina including unbelievers might carry out the payments and ransoms according to the document I. 3), for example, says as follows; “Banū ‘Awf, according to their former condition, pay jointly the previous blood-money, and each sub-clan ransoms its captive(s), (doing so) with uprightness and justice between the believers.” In this, they do not say that only the believers of Banū ‘Awf are responsible for paying and ransoming, but say that all members of Banū ‘Awf are responsible to do so. The phrase of “with uprightness and justice between believers” is to be only an ornamentation. It might be an interesting fact that a contract signed by members of a minority group of the society was carried out by all members of the society. The document I might be a mirror of the following stage of politics of Medina.

Before the *hijra*, Medina was under such a condition that any leading politicians had not been able to introduce peace into the society because of their mutual rivalries. The believers, none of them being leading politicians, invited Muḥammad and concluded the peace under the names of the Prophet and Allāh.

Although Muḥammad and believers insisted that the acceptance of Islam and the agreement to the contract were indivisible, most of the people of Medina disregarded the importance of this insistence, and agreed to the contract and carried out the payments and ransoms of their captives. After long continued civil wars and under the condition of non-existence of native politicians who could integrate the society, believers, being only a minority population of the society, could gain the leadership of the politics in a time.

As for the preface and 1)–11), the texts A, B and C are almost the same but small differences of terms. The text B lacks, however, 12)⁽²⁰⁾ and the texts B and C lack the first half of 15). The problems on the lack of 12) will be discussed in the following chapter. The first half of 15) is as follows; “The security of God is one; the granting of ‘neighbourly protection’ by the least of the believers is binding on them.” This is a regulation concerning on the *jiwār* (neighbourly protection). In the other parts of the text A, there are several stipulations concerning on the *jiwār*, but except 20) texts B and C lack such stipulations. Lacking of the first half of 15) in the texts B and C should form a link of lacking these, and never be miss-transmission of the texts B and C. A set of stipulations on the *jiwār* might be added to the Constitution in some time, and the first half of 15) had to be added here at the same time. The original text of the document I might lack the first half of 15), and then 14) and the second half of 15) would compose one clause, which is as follows; “A believer does not kill a believer because of an unbeliever, and does not help an unbeliever against a believer. The believers are patrons of one another to the exclusion of other people.”

Except 12) which is missing in the text B, 11)–19) are the general principles which the believers should observe. The contents of these are as follows; believers do not forsake a debtor for blood-money among them but help them (11); believers should be against one who acts wrongfully even if he is a son of one of believers (13); the Jews who follow believers should be helped and supported by the believers (16); the peace of believers is one (17); in the battle-field, believers should help each other, and exact vengeance for one another (18 and 19).

These contents of the stipulations may prove that the document I is an agreement only among the believers and there is no reference to unbelievers. Making believers their representatives, unbelievers might have agreed to the peace of the entire society of Medina. The legal positions of unbelievers are not

regulated in the document I, and those of the Jews are not regulated either. As for the Jews, 16) refers to them in brief, but not concretely.

V

The 12), which wanted in the text B, is as follows; "A believer does not take as *ḥalīf* the *mawlā* of believer without his (the latter's) consent." In another paper of the author, the characteristics of the *ḥalīf* and *mawlā* are discussed in detail.⁽²¹⁾ In the societies of Mecca and Medina at that time, a *mawlā* was a freedman depending on the former owner, and most of *ḥulafā'* (pl. of *ḥalīf*) were confederates relating to the attached groups through marriages or maternal lines, and whose social positions were equal to the normal members of the groups. So, the above-mentioned stipulation means that no believer attempt to raise the social position of a freedman without the consent of the one on whom the freedman depends. Other stipulations of the document I are general principles except the ones which mention the proper names of groups for paying the blood-money. These general principles might be considered as a documentation of the spirits of the law. However, 12) is a concrete regulation. At the back of this regulation, one can easily conceive such an incident that a believer confederated a freedman without the consent of his master.

Hamidullah introduces the following *ḥadīth* which is preserved in *Musnad* by Ibn Ḥanbal and also in *al-Jāmi' al-Ṣaḥīḥ* by Muslim; "The Messenger of God wrote to all the groups about their blood-money and then wrote that nobody took care of a *mawlā* of a believer without his consent." In this *ḥadīth*, the writing of Muḥammad on the blood-money and his writing on the *mawlā* were considered to be related to each other but not to be done at the same time. The *ḥadīth* may suggest that 12) is the one which was added later to the original text of the document I by Muḥammad himself.

As already mentioned, 20)–23) are related to the document I, but Serjeant considers these as later additions. Let these stipulations be supposed as the document II. As for this, the text A, B, and C are the same essentially with a little differences of terms. 23), being already introduced above, is a closing phrase of a contract. In this phrase, the position of Muḥammad is declared as a judge to whom everything "that you differ about to be referred." Serjeant considers that Muḥammad was in the same position as a modern *murrad* of South Arabia who decides the elucidation of contracts when the parties con-

cerned differ about this. The contents of the document II may suggest, furthermore, that Muḥammad was not only a judge but also a lawgiver.

The 20) says that no idolater gives *jiwār* for goods or person to Quraysh, nor intervenes in his (a Qurashī's) favour against a believer. In the same way as the case of 12), at the back of 20) one can conceive such an incident that an unbeliever gave his *jiwār* to a Quraysh, causing a political event. This is also a concrete regulation. And it should be noted that this regulation retains idolaters that are unbelievers, the majority population of Medina. Apart from the stipulations of the document I, this stipulation declares Muḥammad's will to control unbelievers under his leadership. And it is obvious that this stipulation was set up at the time when he could do so.

The 21) is as follows; "When anyone wrongfully kills a believer, and the evidence being clear, then he is liable to be killed in retaliation for him, unless the representative of the murdered man is satisfied (with a payment). The believers are against him (the murderer) entirely; nothing is permissible to them except to oppose him." This regulation seems to be similar in content to 13) and 14) of the document I. However, as opposed to 13) and 14), this regulation is also a concrete one, at the back of which a murder case could be conceived.

The 22) is as follows; "It is not permissible for a believer who has agreed to what is in this document and believe in God and the last day to help a wrong-doer or give him lodging, and so and so." At the back of this regulation, one can again conceive such a case that a believer gave lodging to a wrong-doer, who might be the killer of the above supposed murder case. This regulation is also a concrete one that was set up by Muḥammad after a certain incident occurred. The phrase of "a believer who has agreed to what is in this document" should be noted. The original term of the "document" is "*al-ṣahīfa*", which means, in general, paper. Of course, at that time, paper has not yet introduced into the Arabian society. The term should mean, in this case, parchment. The phrase proves that the Constitution existed as a written document, and the document which had once been written became an implement for the politics of Muḥammad who began to try to control the people. That might be the reason why Muḥammad kept the document with his sword. The written document in which people agreed to the peace developed, in the next stage of the politics, into an implement which supported the leadership of the former mediator.

As already proved, the content of the document II differs clearly from that of the document I. In the former, Muḥammad was a lawgiver as well as a judge of the Constitution. The stipulations of the document II with 12) might be added by Muḥammad himself to the document I, when the position of the Muḥammad changed from a mediator of the civil wars to as a political leader of the society. It must be after the battle of Badr.

VI

Parts of 24)–35), stipulations concerning the Jews, wanted in the texts B and C. Now, let us suppose the stipulations common to the three texts as the document III, and the stipulations wanting in the texts B and C as the document IV.

The 24), heading of the document III, is as follows; “The Jews bear expenses along with the believers as long as they continue at war.” And then 25) is as follows; “The Jews of Banū ‘Awf are a community along with the believers. To the Jews their religion and to the believers (Muslims, in the text A) their religion. (This applies) both to their *mawālī* and themselves, with the exception of anyone who has done wrong or acted treacherously; he brings evil only on himself and on his household.” 26)–30) say that for the Jews of each group is the like of what is for the Jews of Banū ‘Awf. The substance of the document III clarify that Muḥammad permitted the Jews to keep their religion but got them to be responsible for paying of war expenditures.

The document III refers to the Jews of six groups whose names are mentioned in the document I as units for paying the blood-money. This fact means that these groups were not the groups of the Jews but those of the ‘Arabs of Medina. Biographies of Muḥammad and chronicles relate about the three tribes of the Jews of Medina. These were Qaynuqā‘, Naḍīr, and Qurayza. Muḥammad expelled Qaynuqā‘ from Medina in the 10th month of the second year, and expelled again al-Naḍīr in the 3rd month of the 4th year, and then exterminated Qurayza in the 12th month of the 5th year. The document III does not mention, however, the names of these three tribes.

Al-Balādhurī describes as follows; “They say that when the Messenger of God came to Medina, he wrote a writing between him and the Jews of Yathrib and made a pact with them. It was the Jews of Qaynuqā‘ who broke it at first, and then the Messenger of God expelled them from Medina.”⁽²²⁾

Serjeant is wrongly of opinion that the pact, mentioned in the above description, means the documents I and II, although the description indicates the pact made only with the Jews, and throughout the description there is no reference to the believers.

al-Wāqidī preserves a similar *ḥadīth* with an *isnād* headed by a man of Qurayṣa.⁽²³⁾ He relates again an episode that when Muḥammad attacked Qurayṣa a leader of Qurayṣa kept a written document contracted at the time of coming of Muḥammad to Medina.⁽²⁴⁾ All of these prove that, apart from the documents I, II, and III, Muḥammad wrote a document or documents to the Jews who had formed their own tribes. In many cases, Muḥammad wrote documents to persons or to groups with whom he had contacted. So, it might be probable that he wrote documents to the tribes of the Jews of Medina. In the course of time, these contracts should become of no force. However, even after the extermination of Qurayṣa, there existed some Jews in Medina. The document III might concern the Jews other than those of the three tribes.

In Medina, there was the fourth tribe of the Jews, on which the document IV concerns. The 31) regulates that for the Jews of Banū Tha'laba be the like of what is for the Jews of Banū 'Awf. This Banū Tha'laba was a group of the Jews. The 32) is as follows; "Jahna, a subdivision of Tha'laba, are like them." This phrase proves that the Tha'laba tribe had a complex composition. Furthermore, 33) mentions Banū al-Shuṭayba. The texts B and C, which lack the document IV, mention the name of Banū al-Shuṭba as a subdivision of Jahna. If it is correct, Jahna, a subdivision of Tha'laba, had its subdivision. The 34) says that *mawālī* of Tha'laba are like them. The 35) is as follows; "The *biṭān* (the meaning of this term is obscure) of the Jews are as themselves." Banū Tha'laba should be the group of various people just as groups of 'Arabs were so.

The document IV gives directions in detail to the Tha'laba tribe and to those attached to them. The fact that the texts B and C lack the document IV may suggest that the original document of this might be an independent document, and parts of which might be added later to the Constitution. Some scholars suppose that the above-mentioned three tribes of the Jews are indicated as the Jews of groups of 'Arabs in the document III. However, the view is hardly acceptable because that the name of the fourth tribe, which had to be much smaller than the three, is mentioned in the document IV. Muḥammad might contract with each of the four tribes of the Jews in Medina, and

the three of them became of no force but the essential part of one of them was added to the Constitution probably after the extermination of Qurayza. So, the Jews to whom the document III refers should be the Jews other than those who composed their own tribes.

If the above view of the author is correct, the documents III and IV are very interesting materials for historians. These may prove the following fact. Other than the three tribes of the Jews which had been expelled or exterminated by Muḥammad, there existed another tribe of the Jews which was composed complexly and attached *mawālī*, and also existed the Jews who were attached to a certain group of 'Arabs. Muḥammad secured them by written documents and let them pay war expenditures.

VII

The 36)–38) seem to be without order. The 38), wanted in the texts B and C, is the same phrase as 24) of the document III. The texts B and C want also the phrase of the beginning of 37), which says that it is for the Jews to bear their expenses and for the Muslims to bear their expenses. If one supposes these three stipulations of the text A as the document V, it refers clearly to the Jews, and is related to the documents III and IV. However, in the texts B and C, these become very short writings, and in these, there is no reference to the Jews. These are to be translated as follows; “No one of them may go out to war without the permission of Muḥammad, God bless him and grant him salvation. Between them there is help against whoever wars against the people of this document, and between them there is friendship and help for the person wronged.” This must refer to ‘the people of this document,’ on which the next document (the document VI) concerns. The document V of the text A might be formed mixing the document VI with the documents III and IV.

VIII

The group of the stipulations from 38) to 47), the last one of the Constitution, should be divided into two parts. The one of them may compose the document VI which concerns ‘the people of this document.’ And the other one may form the document VII which include 40), 41), 43), and such a part

of 47) as "God is protecting neighbour (*jār*) of him who acts honourably and fears God, and Muḥammad is the Messenger of God, God bless him and grant him salvation." All of these phrases refer to *jiwār* and want in the texts B and C. The document VII with the above-mentioned phrase of 15) might be added to the Constitution after the document VI had already been added to it.

The original term of 'the people of this document' is *ahl al-ṣahīfa*. As already said, in 22) of the document II there is such a phrase as "a believer who has agreed to what is in this document." Including the phrase, however, the documents I and II would retain mostly 'the believers.' On the contrary, the document VI would retain mostly 'the people of this document.' Because of this fact, the document VI differs clearly in its characteristics from the documents I and II. It is hardly probable to suppose that all of these are parts of a document written at a time.

The 39) is as follows; "The vally of Yathrib (al-Madīna, in the text B and C) is sacred (*ḥaram*) for the people of this document." *Ḥaram* indicates a place where nobody murders or injures one even if the latter is an enemy of the former. There were many *ḥaram* places in Arabia at that time, and each *ḥaram* place attached two kinds of people, one of them were those who regarded the place as *ḥaram* and the other were those who disregarded the place or wanted to attack the place.⁽²⁵⁾ It depended on the balance of powers between the two kinds of people whether the place could get the position as *ḥaram* or not. Indeed, today, Mecca and Medina are *ḥaramayn* for every Muslims. Medina had not to be, however, *ḥaram* from the time of the *hijra*. Here, after the *hijra*, several assassinations and wars were carried out under the leadership of Muḥammad himself. After disappearance of aggressive opponents like the three tribes of the Jews, Muḥammad might declare the *ḥaram* of Medina. Serjeant introduces the following *ḥadīth* from al-Samhūdī; "It was after the expedition to Khaybar (the first month of the 7th year) that the *ḥaram* of Medina was declared."⁽²⁶⁾ Upto this time, aggressive opponents in and around Medina had disappeared, and al-Naḍir, former inhabitants of Medina had just submitted, and also the pact with the people of Mecca had been concluded. The mentioned date of declaration might be reliable.

The 42) is as follows; "Whenever among the people of this document there occurs any incident or quarrel from which disaster for the people is to be feared, it is to be referred to God and to Muḥammad, the Messenger of God, God bless him and grant him salvation." In the document II, Muḥammad

was a judge to whom everything that the people differ about is to be referred. But now, Muḥammad became a supreme judge, meaning that all political incidents are to be referred to him. This regulation prove the dicisive change of the position of Muḥammad in the course of time.

As for 44)-46), Serjeant considers these as an independent document concerning Qurayḡa, a tribe of the Jews. The 46) of the texts B and C include, however, the above-mentioned phrase that Banū al-Shuḡba was a subdivision of Jaḡna. This phrase must prove that 45) and 46) refer to Banū Tha'labā but not to Qurayḡa. At the time when the document VI might be written, the most of the population of Medina were the believers and a little Jews who were attached to and depended on the groups of the believers. 'The people of this document' must indicate those. There existed, however, an exceptional group, that was Banū Tha'labā who formed their own independent group. For Muḥammad, it was necessary to refer to the exception in the document concerning mostly the people of this document. The 45) and 46) may be such references, and 44) may be for the people of this document.

IX

Now, it becomes clear after the investigations of the contents of the Constitution and of *ḡadīths* referring to it that the text A, as well as B and C, is a composite form of several documents of various dates. Muḥammad gave laws not only through revelations but also through the documentation of declarations by himself and of agreements with people. Documents once written became implements of the leader through which he ruled the people. The Constitution is a good evidence of the developing process of the politics of Muḥammad.

Several terms in the Constitution, such as *umma*, *mu'min*, *muslim*, *nabīy*, *rasūl Allāh*, Yathrib, al-Madīna, etc, should be investigated in detail, and the author will have opportunity to do so in future.

Notes

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(1) Ibn Hishām: *Kitāb Sīra Rasūl Allāh*, (ed. F. Wüstenfeld), Göttingen, 1859-60, pp. 341-44.

(2) W. M. Watt: *Muhammad at Medina*, Oxford, 1956.

- (3) R. B. Serjeant: "The Constitution of Medina," *Islamic Culture*, Vol. 8, 1964.
- (4) J. Shimada: *Yogensha Mahomet* (in Japanese) (*The Prophet Muhammad*), Tokyo, 1966.
- (5) Abū 'Ubayd al-Qāsim b. Sallām: *Kitāb al-Amwāl*, al-Qāhira, 1353H. pp. 202-7.
- (6) M. Hamidullah: *Majmū'a al-Wathā'iq al-Siyāsiya*, 3rd ed., Bayrūt, 1969, pp. 39-47.
- (7) Ibn Sa'd: *al-Tabaqāt al-Kubrā*, Bayrūt, 1957-58, Vol. 7, p. 519.
- (8) Ibn Sa'd: Vol. 7, p. 518; al-Bukhārī: *Kitāb al-Ta'rikh al-Kabir*, Ḥaydrābād, 1958-9, Vol. 3, p. 121.
- (9) Ibn Kathīr: *al-Bidāya wa al-Nihāya*, Bayrūt, 1966, Vol. 3, p. 226.
- (10) Ibn Ḥajar al-'Asqalānī: *Tahdhīb al-Tahdhīb*, Bayrūt, Vol. 3, pp. 41-2.
- (11) Ibn Sayyid al-Nās: '*Uyūn al-Athar fī Funūn al-Maghāzi wa al-Shamā'il wa al-Sīr*, al-Qāhira, 1356H, Vol. 1, pp. 197-8.
- (12) cf. *EI*, n. e., "Ibn Abī Khaythama."
- (13) al-Wāqidi: *Kitāb al-Maghāzi*, London 1966, Vol. 3, p. 994.
- (14) A. Guillaume: *The Life of Muhammad*, London, 1955, p. xlvi.
- (15) al-Ṭabari: *Ta'rikh al-Rusūl wa al-Mulūk*, Leiden, 1881-2, Vol. 1, p. 1367.
- (16) L. Caetani: *Annali dell' Islam*, (rp.) Hidesheim, 1972, Vol. 1, pp. 525-6.
- (17) Ibn Kathīr, Vol. 3, p. 224.
- (18) A. Goto: "Arabu Senshi-shūdan no Seiritsu (The Emergence of Arab Combatant Groups)", *Rekishigaku Kenkyū*, No. 382 (1972).
- (19) cf. A. Goto: "Hijura Zengono Medina-no Seijō (al-Madina at the time of Muḥammad's Coming)" *Oriente (Bulletin of the Society for Near Eastern Studies in Japan)*, Vol. XXIII, No. 2, 1980.
- (20) Hamidullah does not note that the text C lacks this stipulation although every other stipulations which the text B lacks is wanted in the text C.
- (21) A. Goto: "An Aspect of Arab Society of the Early Seventh Century; Non-related People in the Male Line Descendants Group." *Orient*, Vol. XII, 1976.
- (22) al-Balādhri: *Kitāb Futūḥ al-Buldān*, London, 1931, pp. 478-9.
- (23) al-Wāqidi: p. 176.
- (24) *ibid.*, pp. 455-7. Ibn Ishāq relates also a few episodes on the documents contracted between the Jews and Muḥammad.
- (25) A. Goto: "Isulamu Bokkō-ki no Arabu-shakai no Kōzo (2) (The Social Structure of the Arabs in the Early Period of Islam)," *Isulamu Sekai (The World of Islam)*, No. 11, 1976.
- (26) al-Samhūdi: *Kitāb al-Wafā' al-Wafā' bi-Aḥbār Dār al-Muṣṭafā*, n. p. 1326H, Vol. 1, pp. 77-8.