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Creating a Muslim State The Collection and Meaning of ṣadaqa¹

1. Introduction

More than a hundred years of critical studies of the Arabic narrative sources, written down from the end of the second/eighth century onwards, have led most scholars to accept that the Islam known to us from these texts took, in fact, several centuries to develop. Rather than springing fully formed into the world with God's revelations to Muhammad, the Islam presented in the texts of the mediaeval Islamic scholars was the result of generations of trial and error, of evolution and negotiation, in reaction to external and internal impulses. But how exactly Islam evolved during these centuries is still highly obscure, since the only way to move beyond the version of Islam's birth that is presented in the Muslim literary sources is to step over them and turn instead to unedited contemporary sources. Considering the enormous weight of the narrative evidence and the paucity of other contemporary sources, one sees immediately the central value of papyrus for the study of early Islam².

The institution of ṣadaqa/zakāt is a case in point. For the Islamic narrative account of the emergence and functioning of this institution contrasts interestingly with papyrological evidence. A unique early second/eighth century Arabic letter on papyrus now in the university of Michigan collection informs a Muslim administrator in the Southern Fayyūm to collect the ṣadaqa/zakāt in the villages for which he is responsible. Examined in cautious conjunction with the literary evidence, this papyrus can be used to study the level of regulation and organisation of the institution of ṣadaqa/zakāt and taxes for Muslims in early Islamic Egypt.

The procedure explained in the letter also has important implications for the definition of the Muslim state and the institutions that were part of it at different times. Rather than an invention from Muhammad's lifetime remaining in place unchanged, the institution of ṣadaqa/zakāt should be explained as the outcome of an evolutionary process related to the challenges Muslim society faced in its transformation from a tribal society with a small group of members on the Arabian Peninsula into a world empire.

This paper is an attempt to chart the mechanics of this process of evolution, without wanting to argue that evolution and change stopped at the time this papyrus was written. I aim to show how Islam responded to, and was shaped by, external circumstances concerning the institution of ṣadaqa/zakāt and how it consequently struggled to make meaningful, practical sense of Quranic requirements. The adaptation and definition of Islamic institutions were both the outcome of and a tool for the formation of the Islamic state during the first two centuries of Islam.

2.1 The Islamic Narrative of ṣadaqa/zakāt

The conventional view of the development of Islamic taxation of Muslims in the form of ṣadaqa/zakāt is well-known from Arabic narrative sources and I will start by summarising this development as it is presented in this tradition. At the beginning of the first/seventh century God revealed to the prophet Muhammad in Mecca that believers were to give alms (ṣadaqa/zakāt)³ and share their possessions with those more in need

¹ I would like to thank Gladys Frantz-Murphy, Ella Landau-Tasseron, Avram Udovitch and Lennart Sundelin for most helpful comments on earlier drafts of this paper. I am also grateful to Alexander Schubert for correcting my English. A fuller treatment of this text appears as chapter two of my dissertation *Creating a Muslim state: the archive of 'Abd Allāh b. As'ad*, Princeton University, where the papyrus discussed here is also edited.

² For an overview of this problem see S. Humphreys, *Islamic history. A framework for inquiry*, Princeton 1991, Chapter 3 and F. Donner, *Narratives of Islamic origins: the beginnings of Islamic historical writing*, Princeton 1998, 1–31.

³ Other words used in the Quran to refer to the alms-tax are: nafaqa, 'ātā, khayr.

of them, transforming this injunction into an obligatory duty in verses revealed in Medina between the years 2/623 and 9/630⁴. The Quran records these events, ordering Muslims to give alms as a general obligation and defining its recipients, but without establishing the amount to be given, the objects *ṣadaqa/zakāt* should be paid over or how the “tax” should be collected⁵. The caliph Abū Bakr (r. 11–13/632–634) — or one of the other four rightly-guided caliphs or even, according to some, the prophet Muhammad himself — is most often credited with regulating and establishing alms-giving as a religious tax levied upon the property and income of Muslims and collected by the Muslim authorities⁶. *Ṣadaqa/zakāt*, indeed, was established as one of the five “pillars (al-arkān al-khamsa)” of Islam — joining the witnessing of faith (shahāda), prayer (ṣalāt) fasting (sawm) and pilgrimage (hajj)⁷. It was up to Muslim legal scholars, however, to struggle with the details of the liability to and collection and division of *ṣadaqa*, which they did in written interpretations from the end of the second/eighth century onwards⁸. Ḥadīths ascribed to Muhammad, but whose dates are famously difficult to determine, were used by legal scholars to support their arguments that *ṣadaqa/zakāt* had existed as a full-fledged institution from the time of the prophet⁹.

Several reasons make it difficult to accept this historical account of events or the later-defined legal model as an accurate reflection of the system in use from the beginning of Islam, even though it is described exactly as such in the Arabic narrative sources. I have already mentioned the circumstances under which Arabic chronicles and legal texts came into existence and why this renders their use as a source for early Islamic history problematic. Nevertheless, without accepting the historical version reproduced in these sources, it is still possible to use them to retrieve some of the ideas and practices concerning the institution of *ṣadaqa/zakāt*.

⁴ Instructions to pay alms: Q II:43 (md); II:83 (md); II:110 (md); II:177 (md); II:7 (md); IV:77 (md); IV:162 (md); V:12 (md); V:55 (md); IX:5 (md); IX:18 (md); IX:71 (md); XIX:31 (mk); XIX:55 (mk); XXI:7 (mk); XXII:41 (md); XXII:78 (md); XXIII:4 (mk); XXIV:37 (md); XXIV:56 (md); XXVII:3 (mk); XXXI:4 (mk); XXXIII:33 (md); LVIII:13 (md); LXXIII:20 (mk); LXXX VIII:5 (md); VII:156 (mk); II:276 (md); XXX:39; XII:88 (mk); II:263–4 (md); II:196 (md); IV:114 (md); IX:104 (md). The Quran and ḥadīths also threaten believers hoarding money without paying the alms-tax over it and keeping it from their fellow believers. See below n. 13. For ḥadīths see e. g.: Bukhārī (d. 256/870), *Ṣaḥīḥ*, Cairo 1968, nos. 1268–1270, 1277, 1281; Ibn Māja (d. 273/887), *Sunan*, ed. M. M. Naṣṣār, Beirut 1998, nos. 1784–1786, 1843; Muslim (d. 261/875), *Ṣaḥīḥ*, Beirut 1995, no. 987.

⁵ *fard* (legal obligation), C. Snouck Hurgronje, *Nieuwe bijdragen tot de kennis van den Islam*, Bijdragen tot de taal-, land- en volkenkunde van Nederlandsch Indië, 4th series, tome 6 (1882) 357–421, repr. in: C. Snouck Hurgronje, *Verspreide geschriften*, Leipzig, Bonn 1923, II, 1–58, 377; Q II:219; 267; 271; 274 (md); IX:79 (md); IX:91 (md); LVIII:12 (md); IX:58 (md); IX:60 (md); IX:103 (md); LVIII:13 (md); LVIII:14 (md).

⁶ ‘Umar b. al-Khaṭṭāb: Mālik (d. 179/795), *Muwatṭā’*, ed. ‘A. Turkī, Beirut 1999, no. 179, 150. Muhammad is said to have left a kitāb al-*ṣadaqa* with instructions concerning the levying and collecting of alms-tax. Tirmidhī (d. 279/892), *Ṣaḥīḥ*, ed. ‘A. M. al-Tāzī, Cairo 1931, III/106; Shāfi‘ī (d. 204/820), *Kitāb al-umm*, ed. M. Maṭurjī, Beirut 1993, II/7. In Muhammad’s letters to recent converts written during the last two years of his life specific instructions concerning the collection of alms were included. Ṭabarī (d. 310/923), *Ta’rīkh al-rusul wa-l-mulūk*, ed. M. J. de Goeje, Leiden 1879–1901, I/1718–1720. Alms tax collectors were sent out by the prophet in the year 8/629–630. Ṭabarī, *Ta’rīkh*, I/1686; the year 9/630–631. I/1722; and the year 10/631. I/1750; Wāqidi (d. 207/823), *Maghāzī*, ed. M. Jones, London 1966, III/1084–1085; Snouck Hurgronje, *Bijdragen* (s. n. 5), 373–377.

⁷ The concept of these five duties for which every individual Muslim is responsible probably emerged in the course of the 2nd/8th century, while the term “arkān” was not used until the 4th/10th century. A. Rippin, *Muslims. Their Religious Beliefs and Practices*. Volume 1: *The Formative Period*, London 1990, 86–87.

⁸ Any systematic Muslim legal and/or religious text contains a chapter on *zakāt/ṣadaqa* discussing obligatory and voluntary alms-tax in all its details.

⁹ Most importantly the traditions relating that the prophet sent Mu‘ādh b. Jabal to instruct the Yemenis: “... that God has laid upon them the obligations of alms (*ṣadaqa*) on their possessions, to be taken from the rich amongst them and returned to the poor”. Tirmidhī, *Ṣaḥīḥ*, III/116–119. Contrast the commands transmitted by al-Shāfi‘ī: “and to teach them what God has imposed on them and to take from them what they owed (wa-yakhūdh minhum mā wajaba ‘alayhim)”, *Risāla*, 416–417; But not in *Umm*, II/96. This same passage offers some insight into the protests that accompanied the collection of financial contributions. Shāfi‘ī rebukes anyone telling the tax-collectors: “you are [only] one [operating by yourself] and you cannot take from us anything we did not hear the prophet of God mention to be owed by us”. 417. See also Ibn Ishāq (d. 151/768), *Sīrat rasūl allāh*, 955–957; tr. A. Guillaume, 642–644. For other examples see: T. H. Weir, A. Zysow, *Ṣadaqa*, EI² VIII/708–716, 710–711.

2.2 The Literary Evidence

Alms-giving was essential for the existence of the earliest Muslim community and an important duty for individual believers. There are many verses in the Quran urging believers not to cling to this profane world, but to give their possessions away¹⁰. Before Muhammad's hijra (emigration) to Medina the religious duty to give alms was motivated by these verses¹¹. But the collection and distribution of ṣadaqa/zakāt as presented in the Quran is orchestrated by erratic, sudden and randomly-applied demands, often left to the free volition of the givers¹², and can hardly be considered as pertaining to a "tax" at all. This fits the image we have of the earliest Islamic community as one limited in members and organisation, relying to a large extent on pre-Islamic custom and practice and responding to local, practical needs, rather than uniformly applied, established religious rules.

This community had not yet acquired the need for extensive institutionalised rules concerning the payment of ṣadaqa/zakāt, but it did — as it had always done — need "giving" as a way to bring members into the community. Assimilation of outsiders into the tribe through gift-giving was a practice well-known in pagan pre-Islamic Arabia¹³. Moreover, both Jews and Christians, several tribes of whom lived in the Arabian oases and whose ideas merchants and other travellers spread through Arabia, considered giving away what was most precious of one's worldly possessions a very pious and necessary deed¹⁴. The Islamic religious prescription to give to fellow-believers as a religious duty to God, via the Muslim community and its leader, did not change the mode of giving; rather, more importantly, it altered the motivation for this deed as well as its resulting ties of dependency between giver and receiver. Where the effective ties in pre-Islamic Arabia had been between the givers and their dependents — the receivers — in Islam the bonds that mattered were those between God and His believers, between His community and His believers and between God and His community¹⁵. Muslim alms-giving to the less fortunate members of the Muslim community determined one's relationship to God and His community, no longer to the individual recipient.

The earliest Muslim community did not need a constant, regularly collected fiscal income, but once it began to mobilise for war, new revenues were needed for payments, provisions and soldiers for its raids and military campaigns. Bringing new members into the religion through the equipping of Muslim soldiers was therefore recommended to the Islamic alms-giver as a special stimulus for donation¹⁶, and out of ṣadaqa's approved recipients (the poor, those responsible for ṣadaqa collection and travellers in need) and justifications for collection (the freeing of slaves and debtors, the conciliation of their hearts [al-mu'allafat

¹⁰ Q II:211; 216–217; 255; 263–281 (md); III:86; 92 (md); VIII:3 (md); IX:34–35; 99–100 (md); XIII:20 (mk); XIV:36 (md); XXVIII:54 (mk); XXXII:16 (mk); XXXIV:38 (mk); XXXV:26 (mk); XXXVI:37 (mk); LXIII:10 (md); LXX:22ff (mk). Here those who fulfil the duties of the believer are described as: "those who acknowledge a certain right of the beggar and the needy to their possessions". Compare XXXIII:4 (mk); LXXXVII:14 (md); XCI:9 (mk); III:128 (md); IX:99–100 (md).

¹¹ Snouck Hurgronje traces a development from zakāt in a general sense, referring to everything one has to do to please God to the more specific meaning of alms giving as the virtue par excellence for Muslims over the Meccan period: *Bijdragen* (s. n. 5), 371–373.

¹² See also Snouck Hurgronje, *Bijdragen* (s. n. 5), 373.

¹³ M. Bonner, *Definitions of Poverty and the Rise of the Muslim Urban Poor*, *Journal of the Royal Asiatic Society*, 6 (1996) 335–344; 337; M. Bonner, *Aristocratic Violence and Holy War*, New Haven 1996, 6; 8–9.

¹⁴ The Old and New Testament contain countless examples of this idea. P. Brown, *Poverty and Leadership in the Later Roman Empire*, Hannover, London, 2002. See Watt's theory that zakāt was especially intended to attract Jews to Islam by emphasizing the institution of charity which was familiar to them: *Muhammad in Medina*, Oxford 1956, 369–372. The word ṣadaqa, related to the Hebrew ṣidqa was not used by Muhammad before the hijra and might have been taken over from the Medinese Jews. Snouck Hurgronje, *Bijdragen* (s. n. 5), 370. Many studies have studied the relation of the words ṣadaqa and zakāt and their Hebrew/Aramaic cognates. Idem I/368–369; S. Bashear, *On the Origins and Development of the Meaning of zakāt in Early Islam*, *Arabica* 40 (1993) 84–113; 86–89; Weir and Zysow, *Ṣadaqa* (s. n. 9), 708–709.

¹⁵ Bonner, *Urban Poor* (s. n. 13), 340, 341, 343; Bonner, *Aristocratic Violence* (s. n. 13), 1–9.

¹⁶ Q II:261; 262; 273 (md); IX:34; 60 (md). Bonner, *Urban Poor* (s. n. 13), 341; Bonner, *Aristocratic Violence* (s. n. 13), 129; C. Décobert, *Le mendicant et le combatant: l'Institution de l'islam*, Paris 1991, 193–251; Ibn Māja mentions the administrator of ṣadaqa and the Muslim soldier away from home as recipients of the alms-tax. Sunan (s. n. 4), no. 1809.

qulūbuhum, i. e. of recent or potential converts]¹⁷, the advancement of God's cause [fī sabīli allāh]¹⁸), the Quran gives support for the military particular emphasis¹⁹.

In revelations revealed after the prophet's hijra to Medina a much fiercer demand is made to fulfil one's duty to contribute alms to the Muslim treasury from which distributions could be made to those who were entitled to it²⁰. This is the period in which the young Muslim community began its military campaigns, and it is very probable that the prophet had to raise money amongst his community for every campaign and military action individually²¹. That Muhammad was in need of money is clear from his decision to levy entrance fees for his councils as described in the Quran — even though this measure did not last long²². Many traditions also confirm that the prophet demanded his wives to make contributions to the treasury from their own jewellery²³. A ḥadīth describes an occasion on which Muhammad tried desperately to raise money by levying ṣadaqa for military purposes. The prophet was praying in the mosque in Medina when some bare-footed and nearly naked men entered carrying swords and wearing woollen cloths and turbans. It was only with considerable difficulty that Muhammad was able to convince his community to raise ṣadaqa to pay these worthy warriors²⁴. Although it is impossible to establish the historical accuracy of this anecdote, it does show that (the prophet's) raising of ṣadaqa for suddenly-appearing costs related to warfare was a scenario readily recognisable to Muslims at the time this tradition came into circulation.

So, while it is unlikely that the ṣadaqa/zakāt was a tax which was regularly and systematically collected from and distributed amongst all Muslims at the time of the prophet, it is also unlikely that it was generally considered to be an integral part of Islam at that time²⁵. Moreover, “those responsible for ṣadaqa” refer to Muhammad's agents sent to subjected Arab tribes to collect a tribute, according to well-established pre-Islamic custom, and not to the fiscal officials as they are sometimes described in the later sources²⁶. In Medina Muhammad himself was forced to repeat his demands to Muslims to give him his due, suggesting that the ṣadaqa/zakāt was not considered a general and undisputed religious duty for Muslims or for the submitted tribes.

The demand to pay ṣadaqa/zakāt or some other form of tribute to Muhammad was first and foremost determined by the power relationship between the prophet and the paying tribes, rather than by their

¹⁷ The prophet provides generous gifts after the battle of Ḥunayn in 8/630 to prominent recent converts. F. Donner, *The Early Islamic Conquests*, Princeton 1981, 65; Ibn Ishāq, *Ṣīra*, 594–595; Tirmidhī, *Ṣaḥīḥ*, III/170–172; Q IX:60 (md). But according to Shāfi'ī, *Umm*, II/97 this was not paid from the ṣadaqa but rather from booty or the prophet's own property.

¹⁸ Most often interpreted to provide for Muslims wishing to undertake jihād or the pilgrimage but lacking the means to do so. Shāfi'ī, *Umm*, II/97–98, 100.

¹⁹ nafaqa/infāqa in the meaning of preparing one's battle equipment. Q IX:53ff. (md); LVII:7ff. (md). Give away wealth (ʿātā al-mal) to kin, orphans, needy, traveller in need, beggars, redemption of captives. II:177 (md) Feed (imūna) needy, orphans and captives. LXXVI:8 (md) Give (mā anfaqtum min khayrin) for parents, kinsmen, orphans, the needy, the traveller. II:215 (md) Give for (yunfiqūna amwālahum) God's cause (fī sabīl allāh). II:261 (md); (yunfiqūna amwālahum) II:262 (md) Debt waved as alms (taṣaddaqū). II:280 (md). Everything you will give (tunfiqū) for the cause of God (fī sabīli allāhi) shall be repaid to you. VIII:60 (md) Alms (ṣadaqāt) for poor, needy. IX:60 (md) Give the kinsman his right (ʿāti ... ḥaqqahu) and the needy and the traveller. XVII:26 (mk). Free slave, feed kinsman in famine or orphaned relation or needy in distress. XC:12–16 (mk).

²⁰ Leading to the “radical” interpretation of ṣadaqa by Meccan jurists. Bonner, *Urban poor* (s. n. 13), 343.

²¹ Not only the financing of military supplies fell to the prophet's responsibility, he also had to provide gifts for participants for example at the battle of Ḥunayn. See above note 17.

²² Q LVIII:12 (md); abrogated by LVIII:13 (md).

²³ Tirmidhī, *Ṣaḥīḥ*, III/129–131.

²⁴ Cited by Bonner, *Urban Poor* (s. n. 13), 340. Bukhārī, *Ṣaḥīḥ*, no. 2219.

²⁵ Shāfi'ī considered the duty to pay zakāt over one's possessions to constitute “general knowledge which it is impossible for a mature, sane person to be ignorant of (ʿilm ʿamma lāyasʿu bālighan ghayr maghlūb ʿalā ʿaqlihi jahluhu)”, but its exact execution and mode of observation determined by the prophet Muhammad's words not: “thumma bayyana ʿalā lisān rasūlihi ʿadad mā faradaḥā ... wa-ʿadad al-zakāt wa-muwāfiqihā” *Umm*, II/3–5; *Risāla*, 357; see also: 21; 31; 157–158; 223; 363; 480. Mālik recognised the prominent place the five principles occupy in Islam, without assuming they constituted the defining factor of the religion. *Muwattāʿ*, *Bāb al-zakāt*. Contrast the many ḥadīths in later works of law and collections of traditions naming the five principles or pillars of Islam. For example: Bukhārī, *Ṣaḥīḥ*, no. 1263; Ibn Māja, *Sunan*, no. 1783. See also Ṭabarī, *Taʾrīkh*, I/1723 where the prophet is asked about the obligatory acts of Islam, namely: zakāt, fasting, pilgrimage, while having mentioned before five daily prayers and the renouncement of polytheism.

²⁶ Papyri refer to taxes set aside for the payment of administrators. E. g. P.Heid. Arab. I, III 26–29.

religious affiliation²⁷. The Quran describes how some Bedouin Arabs considered the payments they made to the prophet a “fine”, or a “tribute” (maghram) resulting from their submission to the Muslims, and were hoping that the prophet would perish and with him the provisions for payments²⁸.

The next episode in the development of the institution of ṣadaqa comes in the Ridda Wars, which took place after Muhammad’s death in 11/632 on the Arabian peninsula. Bedouin tribes that had entered into agreements with Muhammad and had converted to Islam considered those agreements cancelled by the prophet’s death. They refused to continue handing over the ṣadaqa to Abū Bakr, the prophet’s successor, claiming their payments had been an obligation to Muhammad personally²⁹. The first caliph then decided to fight those “who wanted to separate the ṣalāt from the zakāt and who refused to pay him even a camel’s rope they used to give to the prophet”³⁰.

Discussions in Quranic exegetical texts and legal works about the religious foundation and legality of the claims made during the episode of the Ridda Wars are most certainly a product of later Muslim historiography showing that at least up until — or perhaps especially at — the time in which they were written down the function and format of ṣadaqa/zakāt in Islam were being debated in the Muslim community³¹. Some themes come to the foreground in this discussion. First, a tension existed between the need of the Islamic state — or its imam — to raise money and its members’ belief in their having obtained a privileged position by joining the Muslim community, a privileged position that included tax exemption in contrast to the status of non-believers. Secondly, the interpretation of Quranic revelations as motivating the decisions Islamic rulers was debated and needed prophetic ḥadīths to support it.

2.3 The Documentary Evidence

Let us now turn to the documentary evidence. In contrast to the many documents related to other forms of tax collection and papyri dealing with payments made to Muslims, there are no papyri datable to the first one and a half centuries of Muslim rule indicating that ṣadaqa/zakāt was collected on a regular basis by the state or even paid by Muslims at all³². Even when one takes into account the fact that most papyri are found

²⁷ Many examples of the different treatment of converted and non-converted Arab tribes are mentioned by Watt, using the accounts in Ibn Sa’d (d. 230/845), al-Ṭabaqāt al-kabīr, and Ibn Ishāq, *Sīra: Muhammad at Medina* (s. n. 14), Chapter 4. Abū Dāwūd collected ḥadīths in which dhimmīs pay ṣadaqa. Musnad, Bāb al-Zakāt.

²⁸ Q IX:98; 99 (md).

²⁹ E. Shoufani, *Al-Riddah and the Muslim Conquest of Arabia*, Toronto 1972, Ch. 3; Kister, ‘illā bi-ḥaqqihi’, 35–36.

³⁰ Bukhārī, Ṣaḥīḥ, no. 1267; Mālik, Muwaṭṭā’, no. 184.

³¹ Q IX:103 (md) is generally considered to lie down the obligation for Muslims to pay alms-tax. Its formulation, however, has been interpreted to limit this obligation to a payment to the prophet Muhammad personally, since he is the one addressed in this verse. Bashear, *Zakāt* (s. n. 14), 97; 101. A related issue was the application in this case of Q IX:34. Bukhārī, Ṣaḥīḥ, no. 1267. This discussion would have been especially valuable to later Muslim leaders wanting to fight those believers refusing to pay (them) the ṣadaqa. Bashear, *Zakāt*, 104; Kister, ‘illā bi-ḥaqqihi’, 38, 52.

³² The Arabic papyri mentioning or referring to ṣadaqa/zakāt known to me are: (1) P.Cairo. Arab. III 197 (148/765–6): Sheep paid as alms-tax (ṣadaqa) to two tax-collectors (‘āmil) of the governor (amīr). (2) P.Khalili I 1 (with corrections of the Greek by N. Gonis, *Some Oxyrhynchite Villages in the Eighth Century*, *Chronique d’Égypte* 149 [2000] 128–132) (early 2nd/8th): List of villages and amounts assigned to the “poor and needy” (li-l-masākīn wa-l-fuqarā’). (3) P.Vindob. Arab. I 7 (2nd–3rd/8th–9th): Top half of the first page of a tax account book listing land-tax (kharāj), poll-tax (jawālī), palm-tax (nakhl), ṣadaqāt, tithes (a’shār). (4) P.Heid. Arab. inv. no. 28 (incorrectly dated by F. Hussein, *Das Steuersystem in Ägypten von der arabischen Eroberung bis zur Machtergreifung der Tūlūniden 19–254/639–868 mit besonderer Berücksichtigung der Papyrusurkunden*, Frankfurt am Main 1982, 141 n. 9 to the end of the 1st/7th century, by Khan, P.Khalili I, p. 53 to the 2nd/8th century) 3rd/9th century; mentions a ṣadaqa-collector (ṣāḥib al-ṣadaqa) and number of sheep (shā’) to be paid. (5) P.Ness. 56 (67/687) [no alms-tax although interpreted by editor as such p. 159] contract of release in which the father of an employee (his son) returns fifty dīnārs the employer had given him for the duration of the contract, defining thirty dīnārs as a payment in full and twenty dīnārs to be given to the father as a gratuity (Gr. ἐχαρίσατο/Ar. ṣadaqa ‘alayhi bihi). (6) P.Vindob. Arab. I 16 (248/862): Letter mentioning an account of meadow-and alms tax. (7) P.Prag. Arab. 6: Page of a tax-account listing poll-tax (jawālī), meadow-tax (marā’in), palm-tax (nakhl), garden-tax (mi’āl) and ṣadaqāt. (8) P.Heid. Arab. inv. no. 170 (mentioned by A. Grohmann, *Aperçu de papyrologie arabe*, *Études de Papyrologie* 1 [1932] 23–95, 75 n. 1). (9) P.Heid. Arab. inv. no. 563 (mentioned by Grohmann, *Aperçu*, 75 n. 1) mentions ṣadaqāt. (10) P.Berol. 15077, 6 (mentioned by Grohmann, *Aperçu*, 75 n. 1) mentions ṣadaqāt; other probable attestations are mentioned in chapter two of Sijpesteijn, *Creating* (s. n. 1).

in those areas of Egypt where the Muslim presence was probably sparsest at this time, that the number of Muslims in Egypt was much smaller than that of non-Muslims in general, and that only a fraction of the Arabic papyri (and Greek and Coptic ones dating to the Islamic period) have been published at all, making an argumentum ex silentio of course even less attractive, this fact still remains to be explained.

Having established that the regular systematic collection of alms-tax was probably not in place during the first one and a half Islamic centuries, when should we date its introduction? While acknowledging that the view we get through the papyrological evidence is heavily determined by the hit-and-miss nature of (illegal) archaeological exploration — the evidence from which, local and specific, may or may not be representative — it seems possible to put the Michigan papyrus in a larger Islamic context. The remaining part of this paper will show that the beginning of the second/eighth century forms a likely setting for the regulation and application of taxes for Muslims. A discussion of the contents of this papyrus and its historical background will make this clear.

2.4. P.Mich 5558 (2)³³

In P.Mich. 5558 (2) Nājīd b. Muslim writes to ‘Abd Allāh b. As‘ad instructing him to collect the ṣadaqa/zakāt from Muslims living in towns under his jurisdiction in the Fayyūm-oasis³⁴. Nājīd was the pagarch of the Fayyūm (Arsinoite nome) at the time this letter was written³⁵. ‘Abd Allāh b. As‘ad was appointed over Narmūda, the Greek Narmouthis and modern Madīnat Mādī in the Southern Fayyūm³⁶. After the customary opening greetings (lines 1–4), an extensive part of the remaining letter (lines 5–12 and 17–18) records religious formulae emphasising that God, who sent the prophet Muhammad with the true religion and guidance to His community, has also imposed on it the obligation to pay the ṣadaqa³⁷. These lines resonate with Quranic verses and expressions used in ḥadīths, but differ in their exact wording³⁸. Other letters written by the same Nājīd b. Muslim to ‘Abd Allāh b. As‘ad dealing with the collection of other kinds of taxes do not contain similar formulae. While it is perhaps attractive to explain these lines simply as empty rhetoric, it is also possible to consider them as a response to objections made by Muslims to the obligation to pay regular taxes. This objection fits the historical circumstances very well, as we will see when looking at the development of early Islamic taxation.

The letter continues after several lines, which cannot be read because of the faded nature of the ink, with instructions on how to go about collecting and forwarding the taxes (lines 19–34). These instructions resemble those one would expect also for other taxes. That they are much more extensive and detailed here might also suggest that the ṣadaqa/zakāt taxes were not as familiar to ‘Abd Allāh, or that their collection was not as frequent as that of other taxes. But there are no papyri with which to compare this one. ‘Abd Allāh is told to have a suitable collector gather what God has imposed on the Muslims of the zakāt and to seal whatever he received with a seal which is brought to him³⁹. He then has to give the money to a tax official, ensuring that no part of the payment of a village is left outstanding or that arrears are allowed to

³³ This papyrus will be published as number 8 in Sijpesteijn, *Creating* (s. n. 1).

³⁴ ‘Abd Allāh is mentioned to be responsible for the taxes in Narmūda in P.Mich. inv. 5625 (A) (= Sijpesteijn, *Creating* [see n. 1], no. 17). For a description of the forms of communication in early Islamic Egypt between the Egyptian governor, the pagarch and tax-paying subjects as reflected in the papyri, see H. I. Bell, *The Administration of Egypt under the ‘Umayyad Khalifs*, *Byzantinische Zeitschrift* 28 (1928) 278–286; H. I. Bell, *The Arabic Bilingual Entagion*, *Proceedings of the American Philosophical Society* 89 (1945) 531–542; P.Lond. IV, introduction.

³⁵ See P.Mich. inv. 5629 (= Sijpesteijn, *Creating* [see n. 1], no. 2) which Nājīd b. Muslim wrote to ‘Abd Allāh from Madīnat al-Fayyūm (address). For a discussion of the Greek papyri mentioning Nājīd b. Muslim see CPR XXII 8 introduction.

³⁶ A. Calderini, S. Daris, *Dizionario dei nomi geografici e topografici dell’Egitto Greco-Romano*, Milan 1983, III, 318–319; S. Timm, *Das christlich-koptische Ägypten in arabischer Zeit*, Wiesbaden 1988, IV, 1734–1738.

³⁷ (5) اما بعد فان الله بعث نبيه محمدا صلى (6) الله عليه بالهدى و دين الحق و كل (7) الذي ارتضى الله لعباده فمن كان (8) من اهل الدين الاسلام الدين العلم (9) فرض (9) فرض (9) الله عليهم صدقة في اموالهم [...] يزكيه اهل الاسلام حتى تقبض منهم (18) كل ما فرض الله عليهم زكاتها

³⁸ Q IX:33 (md); XLVIII:28 (md); LXI:9 (md) huwa alladhī arsala rasūlahu bi-l-hudā wa-dīn al-ḥaqq. For ḥadīths see for example Abū Dāwūd, *Musnad*, Bāb al-Zakāt, no. 3, farāḍa allāh hādhihi al-ṣadaqa.

³⁹ For the use of seals in Arabic papyri see CPR III, 77–85; P.Qurra III, 27–33.

P.Mich. inv. 5558 (2): (19) ثم اطبع ما قبضت من ذلك بالطابع (20) الذي دفع اليك

build up, but forwarding the ṣadaqa of each village in one lump sum⁴⁰. And finally, he has to write down in a document what he received from each individual, recording his name, his patronymic, his tribe and the town he is from⁴¹. The letter ends with the remark that ‘Abd Allāh should fulfil his task collecting the same amounts he specified and received before, indicating some continuity in the collection.

2.5 Who Are the Muslims in this Papyrus?

The Muslims referred to in this letter are either recent converts being informed of their obligations as Muslims, or Arab immigrants being reminded that they too must pay taxes, just like their non-Muslim fellow villagers. This second option is supported by literary accounts of Arab tribes settling in the Egyptian countryside at this time, the most famous being that of several hundred families of the Qays tribe by the governor ‘Ubayd Allāh b. al-Ḥabḥāb (in office 105–116/724–734) in the Eastern Delta in 109/727, almost contemporary to our papyrus⁴². Second/eighth century immigration can be contrasted to the first/seventh century, when according to Arabic sources the Muslim conquerors of Egypt were for all practical purposes confined to the garrison cities and received their ‘aṭā’ (monetary payment) and rizq (sustenance) according to their place on the register, the dīwān⁴³. The Muslim soldiers were in fact actively discouraged from moving into the countryside and making their own living in agriculture⁴⁴. Published papyri seem to confirm this view, though it is always possible that unpublished documents may yield information about Arab rural settlement in the Egyptian countryside before the second/eighth century⁴⁵.

⁴⁰ Not to leave anything of the payment behind is a common command in the papyri: P.Lond. IV 1349; 1354; 1357; P.Heid. Arab. I, III 12–13. P.Mich. inv. 5558 (2):

(22) فادفعها اليه بعد ان تطبعها ... (29) لكل بما قبضت من كل قرية فل... (30) ذلك جميعا نخالطه صدقة قرية اخرى (31) ولا توخر من صدقة القرية شيئا حتى يكون في دفعة واحدة

⁴¹ The categories: (1) name (2) patronymic (3) residency are most commonly asked for. For example in P.Lond. IV 1356, 23–24 (710): record the name, patronymic and place of residency of land-tax assessors in your district; 1358; P.Vindob. Arab. III 10 (2nd/8th); uktub asmā’ahum wa-asmā’ā āba’ihim wa-qurāhum wa-ṣifātihim; PERF 577 (7th) is a request to record the names, patronymics, residencies and professions of those liable for poll-tax. N. Abbott, *A New Papyrus and a Review of the Administration of ‘Ubayd Allāh b. al-Ḥabḥāb*, in: G. Makdisi (ed.), *Arabic and Islamic Studies in Honor of Hamilton A. R. Gibb*, Leiden 1965, 21–35, no. 1, 9–10.

P.Mich. inv. 5558 (2):

(23) وادفع كتاب (24) ما شعبت عليه من المال سوا و ما لكل (25) من يحمل من ذلك و ما قبضت منه على (26) اسمه و اسم ابيه [و] قبيله و القرية

⁴² Kindī (d. 350/961), *Kitāb al-quḍāt wa-l-wulāt*, ed. R. Guest, *The Governors and Judges of Egypt*, Leiden, London 1912, 76.

⁴³ Financed by the land-tax paid by non-Muslim Egyptians. A. A. Duri, H. L. Gottschalk, *Dāwān. The Caliphate & Egypt*, EI², II, 323–337 “Since the people of the district have recently finished the sowing, they can more conveniently discharge their dues and now has arrived the time for the allowance to the muhājirūn of Fuṣṭāṭ and for the raids and their allowance is paid out of the public taxes of the 7th indiction”. P.Lond. IV 1349, 16–17 (90–96/709–714): Public gold-taxes for the allowance of the muhājirūn of Fuṣṭāṭ. P.Heid. Arab. I, I 7–10 (91/710); P.Lond. IV 1357, 1–4 (90–96/709–714): “And now has arrived the time for the muhājirūn of Fuṣṭāṭ to receive their allowances and to go out to the raids. ... send to us whatever money you have collected of the said public taxes”. 1394, 7–12 (90–96/709–714): Pay the rizq of the muhājirūn for the raids into Anatolia and Egypt with the corn-supply. 1404, 7 (90–96/709–714); 1407, 1433 (90–96/709–714); P.Cairo. Arab. III 148, 7–10 (708–9): “Send 2000 artabas of wheat for the rizq of the muhājirūn”. P.Lond. IV 1335: Land-tax to pay rizq. P.Heid. Arab. I, XIII “We ordered the rizq payments to be made to the army”.

⁴⁴ Ibn ‘Abd al-Ḥakam (d. 214/829), *Futūḥ Miṣr wa-akhbārūhā*, ed. C. C. Torrey, New Haven 1922, 162; P.Qurra III, p. 91 n. 127; Abbott, *New Papyrus* (s. n. 41), 25–35.

⁴⁵ See for example P.Ness. 58 (late 7th) which seems to refer to Arab landowners in the Negev desert. Some papyri mention soldiers in the countryside. CPR VIII 74 (698); PERF 558 (SB VI 9576) (22/643); P.Fay. Copt. 18, 23, 26. In an Arabic papyrus dated 90/708–710 the governor demands an inquiry into the claim of a group of Muslim soldiers that they have owned land in villages in which their registration has been contested for forty years. P.Cairo. Arab. III 150. A letter dated 176–177/794 is written to the Muslims and protected people of the district of Ahnās, Bahnasā and the oases. PERF 624, CPR XXI 2, discussion. An early 8th century account found South of Asyūṭ lists a delivery of oil for locally based messengers and a gratuity to soldiers. P.Apoll. 96. An 8th century letter in Arabic sent from a village in the Delta mentions the estate of the addressee. P.Khalili I 14. In an 8th century tax account one of the tax payers has an Arabic name. P.Bal. 381. In another tax account Arabs function as witnesses. P.Bal. 288. The appearance of Arabic names in documents referring to their presence in the countryside is not entirely uncomplicated. An 8th century letter written in Coptic is written by Yazīd to Abū ‘Alī. This cannot mean that Arab Muslims decided to use Coptic

At this time as well the administration was becoming increasingly Arabicised and Islamicised, resulting in the settlement of Muslims from the capital and/or the conversion of local officials and administrators in the Egyptian countryside⁴⁶. ‘Abd Allāh b. As‘ad himself was probably a product of this development. The level of conversion amongst Egyptians in the countryside at this time is not known, but was probably not very high, making the evidence of settled Muslims living in or associated with several villages even more intriguing. On the other hand, ‘Abd Allāh is also asked to write down the tribe to which these tax-payers belong. The large size of the papyrus, moreover, might indicate it was hung up to be read by Arab speaking tax-payers⁴⁷. But whatever their background was, the most important point is that this letter records the payment of taxes by Muslims living in the Fayyūm at the beginning of the second/eighth century.

2.6 The Meaning of ṣadaqa

The meaning of ṣadaqa and zakāt in P.Mich. 5558 (2) cannot be determined with certainty. In the Quran, ḥadīths and legal texts the two terms — ṣadaqa and zakāt — are used interchangeably for the duty of voluntary and obligatory alms-giving to be fulfilled by believers⁴⁸. According to legal texts, these taxes were levied on self-reproducing livestock, crops planted for consumption, gold and silver and merchandise⁴⁹. In historical and legal texts ṣadaqa — but not zakāt — is also used to indicate the tax (‘ushr) on land or agricultural products paid by Muslims⁵⁰. In some ḥadīths ṣadaqa even refers to the poll-tax for non-Muslims (jizya)⁵¹. In short, no agreement exists amongst Muslim scholars over the meaning of ṣadaqa, except where a case-by-case definition can be inferred from the specific context.

Nor does the documentary evidence clarify matters. A second/eighth century papyrus records monetary payments made for the poor and needy in several towns in the Fayyūm without recording the origin of these payments⁵². Several second-third/eighth-ninth century papyri from Egypt contain among the entries of a tax register, next to poll-tax and different agricultural taxes, the entry ṣadaqāt and/or ā‘shār. In two second-third/eighth-ninth century papyri ṣadaqa refers to taxes paid by Muslims on cattle⁵³. Zakāt appears in one late published letter with the proposed meaning of paying taxes⁵⁴. But again, whether the words referred to taxes in general, land- or property-tax, the most important observation is that this papyrus refers to a regularly state collected tax especially for Muslims with a name different from that used for non-Muslims.

for their private correspondence, but rather that native Coptic speakers took on an Arabic name after their conversion to Islam. CPR II 228.

⁴⁶ CPR XXI, p. 26; K. Morimoto, *The Fiscal Administration of Egypt in the Early Islamic Period*, Dohosha 1981, 124–139.

⁴⁷ See P.Lond. IV 1343, 1385 (99–101/717–720) for demands to publish Greek letters from the governor concerning taxation for non-Muslims in churches.

⁴⁸ See above n. 12.

⁴⁹ Ibn Ishāq, *Sīra*, 956 (tr. 643); Muslim, *Ṣaḥīḥ*, nos. 981; 987–988; Ibn Māja, *Sunan*, nos. 1798–1807; 1812–1824; Tirmidhī, *Ṣaḥīḥ*, III/101–115; 120–143.

⁵⁰ According to most Muslim legal scholars ‘ushr is a form of ṣadaqa/zakāt, more specifically an agricultural tax which was incumbent upon any Muslim whose crops amounted to a certain minimum. Unlike kharāj, which could be assessed on the basis of measured acreage (misāḥa), percentage of the harvest (muqāsama) or as a fixed amount (muqāṭa‘a), ‘ushr was supposed to be calculated as a percentage of the yearly crop. H. Modarressi, *Kharāj in Islamic Law*, London 1983, 3, 7–8. Concerning ṣadaqa on agricultural produce see: Tirmidhī, *Ṣaḥīḥ*, III/120–122; Shāfi‘ī, *Umm*, II/46, 48–51; on honey: Tirmidhī, *Ṣaḥīḥ*, III/123–124; Shāfi‘ī, *Umm*, II/52; Balādhurī, *Futūḥ*, 43; on dates and grapes: Shāfi‘ī, *Umm*, II/40–45; Muslim, *Ṣaḥīḥ*, nos. 979–981; on grain: Shāfi‘ī, *Umm*, II/47–48; on vegetables/greens (khaḍrāwāt): Tirmidhī, *Ṣaḥīḥ*, III/132–133; ṣadaqa rates depended on the manner of irrigation: Tirmidhī, *Ṣaḥīḥ*, III/134–135; Ibn Ishāq, *Sīra*, 956 (tr. 643). Abū Yūsuf (d. 182/798) in his *Kitāb al-kharāj* calls kharāj: ṣadaqat al-arḍ. Modarressi, *kharāj*, 94. On the Euphrates the land that was taxed with kharāj, but became taxed with ‘ushr when its owners became Muslims and lands changed into hands of entering Muslims buying and obtaining ownership in other ways. Ḥajjāj (d. 95/714) changed it back to kharāj land, then the caliph Hishām (r. 105/724–125/743) returned some of it to ṣadaqa land and finally the caliph al-Mahdī (r. 158/775–169/785) returned all of it to ṣadaqa land. Balādhurī, *Futūḥ*, 276. If ‘ushr land is not used, ṣadaqa still has to be paid, just as in the case of kharāj land, regardless of the religion of the owner. Balādhurī, *Futūḥ*, 337. Muhammad tells al-‘Alā’ b. al-Ḥaḍramī to “collect from the Muslims the ‘ushūr and from the non-Muslims the kharāj”. Ibn Māja, *Sunan*, no. 1831.

⁵¹ Weir and Zysow, *Ṣadaqa*, 710.

⁵² P.Khalili I 1.

⁵³ P.Cairo. Arab. III 197; P.Heid. Arab inv. no. 28; PER Inv. AP 194; P.Vindob. Arab. I 16; P.Prag. Arab. 6.

⁵⁴ P.Hamb. Arab. II 33 v 10–11, (begin. 4th/10th century).

3.1 Early Islamic Taxation: ‘Umar I’s fay’-theory

The accounts of the development of Islamic fiscal measures both in Islamic and most Western sources have aimed to find one uniform development leading to a single all-encompassing system. The evidence from Egypt shows, by contrast, that many different approaches for collecting taxes remained in use by the Islamic and local authorities. Moreover, the early legal texts dealing with agricultural taxes, most of which were produced in the eastern half of the Islamic empire, describe and deal with circumstances very different from those in the west. Keeping these conditions in mind, we can still point to some general developments that form the background of the Michigan papyrus.

The Islamic conquests did not only present the Muslims with the challenge of organising and supervising a large empire, they also obliged them to devise and impose a clear taxation system for their diverse subjects, Arab-Muslim, converted and non-Muslim. Two worlds existed: that of the Muslim community and that of the non-Muslim, a division reflected in the type of taxes that each paid. Non-Muslims paid a jointly-levied⁵⁵ land- and a poll-tax⁵⁶ and Muslims ṣadaqa (‘ushr).

The contribution of the non-Muslim taxes was, obviously, much more important than of the Muslim ones. Not only was the tax rate for non-Muslims much higher, but the majority of taxable income generated in the conquered areas belonged to the non-Muslim sphere. Agricultural production in particular was initially almost exclusively associated with non-Muslims and land-tax was consequently considered as belonging to the non-Muslim taxation world⁵⁷. In the first century of Islam, the word for land-tax was even used interchangeably with that for the poll-tax paid only by non-Muslims⁵⁸.

This was the result of a decision, ascribed to ‘Umar I, not to divide the conquered land amongst the Muslims as booty but to leave it in the hands of the original inhabitants in exchange for tax payments that would benefit the Islamic community as a whole as a permanent source of income⁵⁹. In principle only land first brought under cultivation by the Muslims (mawāt), or belonging to Muslims who had converted to Islam out of their free will at the time of the conquests, or conquered land divided amongst the Muslim conquerors, could be cultivated by Muslims and was subject to ṣadaqa⁶⁰. ‘Umar’s decision as described in the chronicles and legal sources to introduce a uniform systematic structure is, of course, based on theories of land taxation developed much later. Taxation systems, in fact, differed greatly following the existing practices in each region and were far from uniform in their details.

3.2 Conflicts in the Early System

Moving from one religious community to the other also involved a change in taxation, but as historical records and documents show, the conditions and privileges of this change were unclear and often undefined. Moreover, a conflict existed between the religious mission to convert inherent in Islam and the state’s need for income from the taxes paid by non-Muslims. A third problem was that Muslims did eventually obtain cultivable land in the Egyptian countryside on an individual basis. What taxes these Muslims were to pay was left up to individual officials to determine. In some cases they continued paying the kharāj, which was

⁵⁵ P.Mon. Apollo, p. 24; Morimoto, *Fiscal Administration* (s. n. 46), 60–61; J. Simonsen, *Studies in the Genesis and Early Development of the Caliphal Taxations System with Special References to Circumstances in the Arabic Peninsula, Egypt and Palestine*, Copenhagen 1988, 85–90; J. Gasco, *De Byzance à l’Islam*, *Journal of the Economic and Social History of the Orient* 26 (1983) 97–109, 102; P.Lond. IV, introduction.

⁵⁶ This tax was revealed in Q IX:29 (md).

⁵⁷ Maqrīzī (d. 845/1442), *Khiṭaṭ*, ed. A. F. Sayyid, London 2002, I/204–214. See also Modarressi, *Kharāj* (s. n. 50), 30 nn. 2, 3.

⁵⁸ jizya, sometimes qualified as jizyat al-arḍ or jizyat al-ra’s refers to both in the papyri. Grohmann, *Aperçu*, 71 n. 1; C. Becker, *Beiträge zur Geschichte Ägyptens unter dem Islam*, Strassburg 1902–3; Modarressi, *Kharāj* (s. n. 50), 31–32, 87; Cahen, *djawālī*, EI² II, 490; Hussein, *Steuersystem* (s. n. 32), 45, nn. 6, 7, 8; in ‘Abd Allāh b. As‘ad’s archive: al-jizya P.Mich.inv. 5613 (A); AP 11252; jizyat al-arḍ, P.Mich. inv. 5578 (8).

⁵⁹ This decision is placed by the Muslim chroniclers after the caliph’s conquest of the Sawād in 14/635, whose status became consequently that of fay’ land– or kharāj land using a Mesopotamian term. CPR XXI, pp. 25–29.

⁶⁰ So ‘ushr was levied on: lands around Basra reclaimed by Muslims. Modarressi, *Kharāj*, 35 n. 5. Land of Muslims voluntarily converted to Islam in Qāqazān in the Qazwīn region of Iran, on the Euphrates and in Yemen. Modarressi, *Kharāj*, 35 nn. 6–9. C. Becker, *Die Entstehung von ‘Ushr- und Kharāj-Land in Aegypten*, *Zeitschrift für Assyriologie* 18 (1904–1905) 301–319, 310–319. An instruction to bring under cultivation deserted land is re-edited in F. Morelli, *Agri deserti (Mawāt), fuggitivi, fisco: una κλήρωσις in più in SPP VIII 1183*, ZPE 129 (2000) 167–178, 168.

considered to be humiliating for Muslims, as can be concluded from legal texts dealing with this problem⁶¹; in other cases the Muslim land-owners ceased to pay *kharāj* but paid the much lower rate of *ṣadaqa*, or claimed to be completely exempt from land-tax on the basis of their religion; converts similarly often left their land and moved to cities refusing to pay any taxes at all.

In Iraq the governor al-Ḥajjāj (d. 95/714) forced converts to return to their land and continue to pay the *kharāj*⁶². The pious caliph ‘Umar II (r. 99–101/717–720) was faced by many similar “solutions” to this problem. His governor al-Jarrāḥ b. ‘Abd Allāh (d. 112/730) of Khurāsān wanted to make circumcision a condition of conversion⁶³. Doubtless he was hoping to stop thereby the drain on the Islamic treasury which resulted from non-Muslims converting, but the caliph forbade it. In Egypt ‘Umar II demanded that his governor, Ḥayyān b. Shurayḥ, stop levying *jizya* on converts. The governor then complained he had had to borrow money in order to be able to pay his soldiers’ stipends (the ‘*aṭā*’), to which the caliph answered: “God sent Muhammad as a guide, not as a tax-collector. By my life, the main purpose of my life is to gather everyone into the embrace of Islam”⁶⁴. The report from a Christian chronicle that ‘Umar II “ordained that any Christian who became Muslim should not pay the poll-tax” also indicates that this was not a general measure before this time⁶⁵. But even at the time of the first Abbasid caliph, al-Saffāḥ (r. 132–136/749–753), it was necessary to issue an edict promising converts relief from the poll-tax, suggesting again that this was not a widespread or uniformly imposed policy throughout the Islamic empire⁶⁶.

In fact, the problem remained a hotly-debated issue in the law books as well, concentrated on the question of whether *ṣadaqa* and *kharāj* could both be levied on the same land or not⁶⁷. Another problem was what kind of land-tax, and at what rate, converted or Arab Muslims should pay on agricultural land⁶⁸. These discussions continue all through the beginning of the Abbasid period, indicating that no uniform model had been introduced up to that time. But to create a uniform taxation system that both provided the Muslim authorities with a continual fiscal income and was in harmony with Islamic prescriptions must have been on the minds of the Muslim authorities.

3.3 Innovation: ‘Umar II’s fay’ Theory

‘Umar II’s fay’ theory should be considered as an attempt to come to a solution for the confusing, diverse fiscal situations in the Islamic empire. The fay’ theory should not be seen — as it is in the Arabic texts — as a watershed in early Islamic taxation, nor should its theoretical model be considered clearly defined and well-established, just as the system of ‘Umar I it is said to be modelled after was not. Caliph ‘Umar II reaffirmed the status of all conquered land as fay’ for all Muslims collectively and subjected to *kharāj*. He forbade *kharāj* land to be sold to Muslims. Converts were relieved from the payment of the poll-tax and *kharāj* upon conversion and were free to move into towns, the cultivation and taxation of their agricultural

⁶¹ Yaḥyā b. Ādam, *Kitāb al-kharāj*, ed. Th. Juynboll, Leiden 1896, 37–39; Modarressi, *Kharāj* (s. n. 50), 140–151.

⁶² Ḥajjāj imposed *kharāj* on lands in hands of converts and Arabs. Balādhurī, *Futūḥ*, ed. M. J. de Goeje, Leiden 1866, 67–68. Ḥajjāj made *mawālī* return from Musūr to their villages and lands. Ibn ‘Abd Rabbih (d. 328/940), *al-‘Iqd al-farīd*, ed. A. Amīn, A. al-Zayn, A. al-Abyārī, Cairo 1940–1953, 244. See also above n. 50.

⁶³ Ṭabarī, *Ta’rīkh*, II/1354. A governor of Iraq rebuked by Ḥasan al-Baṣrī (d. 110/728) is said to have circumcised converts, some of whom died. Ibn al-Qayyim (d. 751/1350), *Tuḥfat al-mawdūd bi-aḥkām al-mawlūd*, Damascus 1971, 168–169. (I want to thank Lennart Sundelin for bringing this reference to my attention).

⁶⁴ Maqrīzī, *Khiṭaṭ*, I 208–209. Another version concerning the same personages says: God sent Muhammad as an inviter (*dā’in*) not as a circumcisor (*khātin*). Ṭabarī, *Ta’rīkh*, II/1354.

⁶⁵ *Chronique de Michel le Syrien*, ed. and tr. J. B. Chabot, 4 vols, Paris 1899–1910, II, 489.

⁶⁶ *A History of the Patriarchs of the Coptic Church of Alexandria*, ed. and tr. B. Evetts, *Patrologia Orientalis*, V, 189; a similar account is told of the Egyptian governor Ḥafs b. al-Walīd who in 127/745 announced that converts would be exempt from the poll-tax, causing thousands of them to appear in Fuṣṭāṭ, indicating again that this had not been the case before. *History of the Patriarchs*, V/116–117; Kindī, *Wulāt*, 86–87.

⁶⁷ Balādhurī, *Futūḥ*, 57, 337; Modarressi, *Kharāj* (s. n. 50), 140–151. In a ḥadīth reflecting this problem Muhammad says: “a Christian converting to Islam is relieved from paying the poll-tax, (*al-naṣrānī idhā aslama wuḍi‘at ‘anhu jizya raqabatihī*)” and “Muslims do not pay tax (*‘ushūr*) when they are paying the poll-tax (*jizyat al-raqaba*) (*laysa ‘alā-l-muslimīn u‘shūr innamā ya‘nībihi jizyat al-raqaba*)”, Tirmidhī, *Ṣaḥīḥ*, III/128.

⁶⁸ *Ṣadaqa* from ‘*ushr* land, *kharāj* from *kharāj* land regardless of the religion of the owner. Balādhurī, *Futūḥ*, 43. *Kharāj* land bought by a Muslim remains *kharāj*, ‘*ushr* land cannot be sold to a non-Muslim because *ṣadaqa* is destined for the poor and would be lost by sale. Sarakhsī (d. 483/1090), *Mabsūṭ*, Cairo 1906, III/2–8. A Muslim inheriting *kharāj* land from a non-Muslim will pay *kharāj* on it. Yaḥyā b. Ādam, *Kitāb al-kharāj*, 8, 37–39, 41.

lands falling under the responsibility of the non-Muslim community. The remaining non-Muslims were collectively responsible for the tax of the land left behind by the converts, increasing the burden on non-Muslim farmers⁶⁹. Moreover, it turned out to be impossible to stop agricultural property changing hands.

Whatever the impact of ‘Umar II’s theory, its description in the legal sources captures the problems facing Muslim rulers and its model, which was itself a direct reference to the policy of the governor Ḥajjāj so strongly opposed by the caliph, was the first phase in the movement towards a separation of land- and poll-tax. It was the caliph Hishām (r. 105–125/724–743) and his governor in Egypt ‘Ubayd Allāh b. al-Ḥabḥāb who completed the transformation by making it legal for (converted) Muslims to own, trade in and work on kharāj land, paying the same taxes as their non-Muslim neighbours did — although it remains unclear when exactly, and to what extent, this policy had an impact on fiscal practice in Egypt.

The separation of the poll-tax from the land-tax is reflected in the terms used in the papyri⁷⁰. It coincided with a development taking place in the law schools whereby the — later dominant — legal opinion was developed that stated that kharāj should be interpreted as a rent on the conquered land whose income should benefit all Muslims⁷¹.

From this time on Muslim landholders are encountered more frequently in the Arabic papyri paying taxes and concluding land lease and sale contracts⁷². The first published papyrus recording a Muslim paying kharāj is dated 179/797⁷³. The governor of Egypt Mūsā b. Muṣ‘ab al-Khath‘amī (in office 167–168/784–785) is said to have doubled the tax rate for Muslims in 167/783, perhaps referring to a change from ṣadaqa to kharāj for Muslims⁷⁴. In reaction to these increases, Muslims in Egypt revolted⁷⁵. A late second/eighth century letter on papyrus indicates again, however, that the status of land in Egypt and the consequent taxes to be paid by its cultivators were subject to constant (re-)affirmation and in need of ongoing clarification and explanation. The agent of the governor of Egypt, ‘Abd Allāh b. al-Musayyib (in office 176–177/794), writes to the inhabitants of the district of Ahnās and Bahnasā and its oases that a letter has arrived from the caliph al-Mahdī (r. 170–193/786–809) concerning Egypt’s jizya and fay⁷⁶. Securing a stable, high fiscal income clearly remained a constant occupation of the Muslim authorities. No document recording demands to obtain or increase the taxes should therefore be considered the final say in the matter, but rather should be seen as a witness to one of the many attempts to do so.

So, in order to solve the problem of Muslims paying a non-Muslim land-tax and to safeguard the income from cultivable land, the kharāj continued to be paid on the land by converts and Muslims alike, but the poll-tax for Muslim (converts) was completely abolished.

3.4 How Does ṣadaqa/zakāt Fit into this?

The requirement for Muslims to pay the ṣadaqa/zakāt should be interpreted as the outcome of the same concern amongst the Muslims to stabilise their fiscal income, while incorporating converts. It is also related to the inevitably increased Muslim presence in the economic sphere — both agricultural and mercantile. Finally, it can be attributed to the ever-increasing need for supplies and money to finance the Muslim (military) enterprises, and the necessity of finding other means of income after the first waves of conquests had died down and the booty had dried up.

⁶⁹ C. Becker, *Papyrusstudien*, Zeitschrift für Assyriologie 22 (1909) 137–154, 139; P.Cairo Arab. III 180 (113/731–2) records the payment by a non-Muslim living in Fustāt for the jizya levied on his village. Refugees appear in the papyri. E. g. W. Diem, *Drei amtliche Schreiben aus frühislamischer Zeit (Papyrus Erzherzog Rainer, Wien)*, Jerusalem Studies of Arabic and Islam 12 (1989) 146–165, 3, 5; F. Morelli, *P.Brook. 26: mogli, tasse e ḡévot. Un problema di punti di vista*, ZPE 130 (2000) 218–138, 221.

⁷⁰ For the distinction kharāj = land-tax and jizya = poll-tax, see Grohmann, *Aperçu* (s. n. 32), 70–71; Modarressi, *Kharāj* (s. n. 50), 88–89, n. 1.

⁷¹ By separating the land tax from the humiliating jizya (= poll-tax) to be paid by non-Muslims only, Muslims could pay taxes as a form of “rent”. Modarressi, *Kharāj* (s. n. 50), 88–89, n. 1; CPR XXI, pp. 30–31.

⁷² For example: P.Cairo Arab. IV 217 (2nd/8th); 223 (2nd–3rd/8th–9th), 224–225 (2nd–3rd/8th–9th); PERF 616 (2nd/8th).

⁷³ CPR XXI, p. 29. See also CPR III 1/2 195. On the unpublished verso of a protocol dated between 141–198/759–813 a tax-payment of kharāj is recorded. PER Inv. Ar. P 4186.

⁷⁴ Kindī, *Wulāt*, 125; Ibn Taghrī Birdī (d. 874/1470), *al-Nujūm al-zāhira fī mulūk miṣr wa-l-qāhira*, Cairo 1929–1972, II/54–5; Maqrīzī, *Khiṭaṭ*, I, 214–218.

⁷⁵ Morimoto, *Fiscal Administration* (s. n. 46), 184; Maqrīzī, *Khiṭaṭ*, I, 214–218.

⁷⁶ PERF 624; CPR XXI 2, discussion.

The loss of income from the land in the hands of converts or Arab Muslims in the old system was redressed after the fiscal reforms by separating the land-tax rate and religion. The regulation and formalisation of the collection of *ṣadaqa* was to compensate for the loss of poll-tax from converts and to tax Muslims more effectively. As mentioned above, there were attempts by the authorities to continue levying *jizya* on converts and the abolition of poll-tax for converts was not self-evident. Both institutions were the outcome of the same developments in the first century of Islam and a response to the consequent new needs of the Islamic state.

In two literary sources biased towards the Umayyad dynasty the caliph Hishām is associated with changes made to the collection of the alms-tax (*ṣadaqa*)⁷⁷. Although the circumstances and associations are very much unlike the measures taken in the Michigan letter, it is nevertheless interesting that the association between *ṣadaqa* and Hishām had been established in the communal memory.

4. Conclusion

The question of whether Muslims — as opposed to their non-Muslim subjects — had to pay taxes or not, and if they did, what kinds of taxes, pops up constantly throughout the Islamic world in the early period of Islamic history. The tax called *ṣadaqa/zakāt* levied in this papyrus on Muslims could have been a property tax. This compares well with other Arabic papyri in which *ṣadaqa* appears as a fiscal category besides land taxes. It is the first proof of the regular collection by the Muslim authorities of this tax. Another Arabic papyrus almost contemporary to our papyrus contains more evidence for the regular collection of *ṣadaqa*. This tax-receipt, dated 148/765–6, records the payment of one sheep for forty sheep as *ṣadaqa* to two tax collectors⁷⁸.

At the beginning of the second/eighth century measures were taken concerning Muslim taxation policy to guarantee a steady fiscal income from agricultural lands in the face of the conversion of its cultivators and the settlement of Muslim Arabs outside the garrison cities. Another measure to secure a certain fiscal income might have been a more tightly controlled and more forcefully imposed collection of the *ṣadaqa/zakāt* from Muslims. This same time saw the beginning of a move to regulate and standardise fiscal policy and all other aspects of Muslim society, which again fits the regularisation of tax collection well.

Muslims protested the changes in the fiscal system and challenged the legality of both of these taxes, arguing that exactly because they belonged to the Muslim community, as opposed to the non-Muslims who were considered to be (and had been) the financiers of the Muslim state, they should be exempt from paying these taxes. It fits perfectly therefore that these kinds of Muslims were presented in this papyrus with religious motives for the tax they had to pay as, it is said, precisely because they belonged to the Muslim community. Another area where this protest was vocalised is in *ḥadīths* early, second/eighth century discussing the obligation to pay alms to the ruler and the legality of paying them instead directly to those entitled to them⁷⁹. Similarly, traditions discussing the question of whether Muslims refusing to pay the *ṣadaqa/zakāt* should be fought and those reporting Muslim protests at the introduction of a tax for believers by the prophet, likening it to the poll-tax paid by non-Muslims and complaining that if they paid this tax

⁷⁷ Although these texts seem to be ordinary anti-Umayyad texts, it is only the caliph Hishām who is associated with abominations of the alms-tax. The first text is ascribed to a sermon delivered by the Khārijite Abū Ḥamza al-Mukhtār b. ‘Awf while rebelling in the Ḥijāz at the end of the Umayyad period. He says in relation to Hishām: “I was present at [the reading out of] a letter which Hishām wrote to you concerning a drought which had occurred. With it (i. e. the letter) he pleased you and angered his Lord, [for] in it he mentioned that he left [the matter of] the alms tax to you. This made the rich amongst you richer and the poor poorer”. Crone and Hinds, *God’s caliph*, Cambridge 1986, Appendix 3. The second one appears in al-Ya‘qūbī’s (d. 284/897) *Mushākalat al-nās li-zamānihim wa-mā yaghlibu ‘alayhim fī kull ‘aṣr*, tr. W. G. Millward, *The Adaptation of Men to their Time: an Historical Essay by al-Ja‘qūbī*, *Journal of the American Oriental Society* 4 (1964) 329–343, 337: “During the reign of Hishām the population unanimously followed his example in conserving what they had, in minimizing generosity and in discontinuing charity until finally it was said that there had never been a time more difficult for the general public than his. The reason for this was that he discontinued the former caliph’s customary practices of generous bequests, charitable donations, subsidies and gifts. The people feigned approval of this followed the course he laid down and imitated him”.

⁷⁸ P.Cairo Arab. III 197.

⁷⁹ Bashear, *Zakāt* (s. n. 14), 112 n. 128; Bonner, *Urban Poor* (s. n. 13), 341 nn. 32–35; J. Schacht, *Zakāt*, EI¹, IX, 1202–1205, 1204. For a full discussion see P. M. Sijpesteijn, *Shaping a Muslim State: Papyri Related to a Mid-eighth-century Official*, PhD dissert. Princeton 2004.

they would have nothing left to leave their children, should be interpreted in the light of the coming into existence of taxes for Muslims imposed and collected by second/eighth century Muslim authorities⁸⁰. In fact, the ḥadīths reflect the situation well, since the second/eighth-century Muslim administrators and rulers followed the prophet's model exactly, invoking religious motives to impose fiscal policies to solve their financial shortages.

The papyrus, then, does not only provide unique and detailed information about the method of collection of the ṣadaqa/zakāt in early Muslim Egypt, it also adds to our knowledge of the formation of the Muslim state in the first centuries of Islam and the way in which ideas about interpretations of Islam and Muslim identity were used to deal with problems the developing Muslim state had not known before this time.

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⁸⁰ The first one is an isolated ḥadīth, the second tradition was brought into circulation by Ṣālim b. Abī al-Ja'd (d. 97–101/715–719). Cited by Bashear, *Zakāt* (s. 14), 99, 102–104.