NOTES ET DOCUMENTS

THE ANCIENT ARAB BACKGROUND OF THE QUR'ÂNIC CONCEPT

AL-GIZYATU ‘AN YADIN

In our note in Arabic, vol. X (1963), p. 94-5, we interpreted the Qur'ânic verse (Sūrah 9, 29) qätilü lladina la yu'minūna bi-lldhi ... min-a lḥiṣūna ʿaṭū l-kīlāba ḥattā yyu'jū l-gizyata ‘an yadin wa-hum ẓāgirūnā as follows: “Combat those non-believers who are possessors of a ‘book’ (i.e., Christians and Jews) until they give the reward due for a benefaction (since their lives are spared), while they are ignominious (namely, for not having fought unto death)”. One might be inclined to question why this commandment had not been expressed in a simpler, more explicit manner (without any circumlocution); for instance, as: “Fight the non-believers until they (surrender and) pay tribute”. Our reply is that the formulation of the commandment in the form in which it exists implies, simultaneously, the legal justification for the payment of the tribute on the part of the vanquished, former enemy and the fact that this justification—and we would like to underscore this point in particular—corresponds to a genuine Arab philosophy of law. According to an ancient Arab concept (quite understandable with archaic, primitive social conditions), the victor in a fight who spare the life of an enemy taken prisoner does actually do the latter a good deed. This “good deed”—and this is highly noteworthy—involves however (and this applies according to the ancient Arab concept to any good deed), simultaneously, a legal claim to a “reward” (a reward which—as in the case of any good deed—the “benefactor” could obviously waive of his own free will).

In the reports on Arab intertribal wars (Ayyâm al-‘Arab “The Days of the Arabs”) and related accounts of actual events, we can find a number of references substantiating the above-defined application of the concept “reward for a benefaction”.

Ağānī, vol. X, p. 41, 27 ff. (= Naqā‘id Ġarir wa l-Farazdaq, ed. Bevan, p. 667, 16 ff.), in the report regarding the Day of Śīb Gābalah (in or about A.D. 570), it is said: ... wa-sadda ʿAwf b. l-Aḥwās bi-l-Mu‘āwiyya b. l-Gawmī fa-ṭasrāhā wā-ğazzā nāṣiyatāhā wā-yaqāhā ʿalā l-fawāhi ... and ʿAwf b. l-Aḥwās attacked Mu‘āwiyyah b. l-Gawm and took him prisoner and cut off his forelock and set him free on the condition of reward”. Moreover, we read in another episode from the same Day (Ağānī, vol. X, p. 4 = Naqā‘id, p. 671, 12 ff.): ... fa-lahiqa Qaysu b. l-Muntafiqī ‘Amra bna ʿAmrīn fa-ṭasaqāhā fa-ṭaqbala l-Ḥārīṣu bnu l-Abrāsi fi sarḥānī l-ḥaylī fa-ra‘āhu ʿAmrīn muqblūn fa-ğāla li-Qaysīn; in adrabkīn l-Ḥārīṣu qaṭlānī wa-fālaḥā mā taṭānisu ʿindī, fa-hal anta muqšīnūn ilāyya wā-ṭilā naṣṭa taḏūṣu nāṣiyatī fa-taDouḡhūfī fī kinānati wa-lāka l-ḥēdu la-ʿafī hānā laḥ; fa-ṭa‘īla ... fa-lahiqa ʿAmrīn bi-qawmīhī, fa-lammā hānī fī l-ḥāri l-ḥarāmī ḡawāqū Qaysīn ilā ʿAmrīn yastaqiqūhā wā-ṭabī‘ahū l-Ḥārīṣu bnu l-Abrāsi ḡattā qādimā ʿalā ʿAmrī bni ʿAmrīn ... ṣumma inna ʿAmrān qāla: yā Ḥārī mā llaḏī gāa bi-ha fa-wa‘alūhi mā l-hā ʿindī min yadin, ṣumma taḍamāmama minhu fa-ṭa‘īha mi‘ādan min-l-ṭibīlī ... “... and Qays b. al-Muntafiq joined ʿAmr b. Ḥārī, and this latter took him prisoner; then al-Ḥārī b. al-Muntafiq arrived among the vanguard of the horsemen, and Ḥārī saw
him approaching and said to Qays: ‘If al-Ḥārīt gets to me he will kill me and you will fail to obtain what you expect to get from me; would you like to do me and yourself a favor? Cut off my forelock and put it into your quiver, and I swear to you: I shall recompense you’; and he did it... and ‘Amr reached his people. And in the holy month Qays went out to ‘Amr to demand his reward (fawāb) from him; and al-Ḥārīt b. al-Abraṣ followed him until both of them reached ‘Amr b. ‘Amr...; thereupon ‘Amr said [to al-Ḥārīt]: ‘O Ḥārīt, what brings you to me? For, by God, I am under no obligation to you (literally: you have no ‘benefaction’—yad, as in the Qur’ānic passage—to your credit with me); indeed you had bad intentions with respect to me, you killed my brother and had the intention to kill me’; and he (that is: al-Ḥārīt) said: ‘Nay, I refrained from you; and if I had wanted—since I reached you—I could have killed you’; and he (i.e., ‘Amr) said: ‘I am under no obligation to you’; whereupon he (i.e., ‘Amr) sought to avoid any blame on his (i.e., al-Ḥārīt’s) part, and gave him hundred camels...’.

It is to be noted that in both instances described in these two quotations the ransom money (fidā) was not paid prior to the release of the prisoner, but later on only—voluntarily as it were—was granted by the released, former prisoner to his former enemy. Thus, in other words, the fawāb, the reward, did not represent (in a good many cases) ransom money in its more accepted meaning, but rather a “reward” in its true sense, i.e., a compensation resulting from a sense of gratitude so to speak for a good deed, a kind of gift; whereby the payment of this reward is considered however to be a self-evident obligation.

To what extent the concept of law of the Ancient Arabs considers it self-evident that the prisoner taken captive in a fight reward his captor who spared his life and released him (instead of killing him as he could actually have done) is shown by the following account. The poet al-Ḥuṭay’ah whose poverty prevented him from rewarding by means of a gift (or “reward”) in material form the hero Zayd b. al-Muhalhil al-Ṭāʾī, known as Zayd al-Ḥayl, who had released him, was allowed to fulfill his obligation to give thanks by praising Zayd al-Ḥayl in poems; and this was explicitly recognized by the generous captor as having fulfilled the obligation to make a reward. We quote Agānī, vol. XVI, p. 56:... fa-aṭāhu Kāʾbun farasahū l-kumayta, wa-ṣakā l-Ḥuṭay’ātu l-ḥāḍātah fa-manna ṣalayhi, fa-gāla Zaydun: aqīla li-ṣabīli Garwalin iḏ asarukhū aḥtāni wa-lā yağurka annakā šārīu... ‘... and Kāʾb b. Zuhayr[ gave his red horse to Zayd (as a price of ransom); al-Ḥuṭay’ah, however, pleaded indigence, and Zayd granted him his life and freedom without a price, and Zayd said (in a line of poetry): ‘I say to my slave Garwal (i.e., al-Ḥuṭay’ah)—since I took him prisoner—: Reward me! you being a poet should not mislead you...’ After some more lines by Zayd, there follow poems of praise in honor of Zayd by al-Ḥuṭay’ah; whereupon the report says: fa-raḍiyā ṣanhu Zaydun wa-manna ‘alayhi limā qāla ḥāḍā fihi wa-ṣadda dālīka fawābān min-a l-Ḥuṭay’āti wa-qabilahū... ‘and Zayd was pleased with him (i.e., with al-Ḥuṭay’ah) and granted him his life and freedom, because of what he had spoken about him (in his poems), and he reckoned that as a reward (fawāb) on the part of al-Ḥuṭay’ah...”.

1. The same conclusion may be drawn from another episode from the report on the Day of Šīb Gabalah to which we only refer without quoting it in extenso; see Naqīdī, p. 675, line 2-3, 5-7, 14-17, p. 676, line 1; cf. also p. 675, line 10. A further interesting instance of this type—connected with the Day of Šuhālah and involving the famous Bistām b. Qays—is related in Naqīdī, p. 681, see especially lines 3-8.