SUMARIO

ARTÍCULOS

Ferrando (Ignacio), Sihawaythi y el concepto de jam'a al-qilla .......................................................... 271
Kaddouri (Samir), Identificación de un manuscrito andalusí anónimo de una obra contra Ibn Hazm al-Qurtubi (m. 456/1064) ......................................................... 299
Oliver (Dolores), Sobre el significado de mawla en la historia omeya de al-Andalus ................................................. 321

VARIEDADES

Fierro (Maribel), Thā’t al-barhabiyah y el destino de los omeyas en al-Andalus ............................................. 345
María Padilla (Encarnación), Testament de Mahoma de Anzeyt, alias «el Marranchano», preso en 1466 ................................................. 349

SECCIÓN MONOGRÁFICA

CONTROL Y ENJUICIAMIENTO DE LA DISENSIÓN RELIGIOSA EN EL MUNDO ISLÁMICO

Fierro (Maribel), Presentación ........................................................................................................... 357
Hurvitz (Ninood), Who is the accused? The interrogation of Ahmad Ibn Hanbal ......................................................... 359
Cooperman (Michael), Two 'Abbāsid trials: Ahmad Ibn Hanbal and 'Abd al-Malik b. Ishaq ........................................................................................................... 375
RELIGIOUS DISSENT IN AL-ANDALUS: WAYS OF EXCLUSION AND INCLUSION

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The Cordoban Ibn Rushd al-Jadd (d. 520/1126) explained that faith and infidelity (ma'in and kufr) are «deeds of the heart» (min al-qalab), so that the infidelity or faith of a person are difficult to establish, because he could be a hypocrite or a concealed apostate (zindāq). There are only two ways to know: a text from God or from the Prophet where it is stated that someone is an infidel, or by performing debates or investigations (munāzara, muṣūdā or muḥbātātah) in which evidence of infidelity could be uncovered and brought to light. At this point, the hidden infidel or heretic may confess or, on the basis of words or deeds that show him to be an infidel (such as considering licit drinking wine, or committing murder, fornication, stealing, seizing property unlawfully, worshiping other than God, concuring in blasphemy against the Prophets, or rejecting a chapter of the Qur’ān and similar things), he could be brought to trial.

Ibn Rushd al-Jadd belonged to the Māliki school of law, predominant in al-Andalus and the Islamic West. Religious dissension has a specific vocabulary in Māliki legal works. Zandaqa, which I will translate as «heresy», is one of the terms used. Both zandaqa and blasphemy (sabb Allah, sabb al-rasūl) are treated under the heading devoted to apostasy (ridda), as they are seen to represent the

1 A previous version of this paper was read at the Seminar «Conversion to Islam in the Mediterranean Muslim Worlds», organized by the European Science Foundation, Escuela Española de Roma (September, 1997), within the project Individual and Society in the Mediterranean Muslim World, Workshop n. 6. Religious activity and experience, team leader M. García-Arenal. It was also read at the International Medieval Congress, University of Leeds (July, 1997).

2 A related possibility was that information could be given by extraordinary means, such as dreams. See an example in Pfeffer, M., «Religious beliefs and practices in al-Andalus in the thirteenth century», Rivista degli Studi Orientali LXVI (1993), 15:33, 21-2.

3 As D. Stewart has recently reminded us, «One is not considered a heretic in Islam for drinking alcohol, and one is not excluded irrevocably from the community of believers for doing so...To hold the opinion that it is not sinful and forbidden to drink alcohol is to go against the consensus and leave the community of believers» Stewart, D., Islamic Legal Orthodoxy. Twelve Shari‘a Responses to the Sunni Legal System, Salt Lake City, 1998, 47. To consider licit drinking wine was one of the accusations made against the see. Ibn Abi’l-Abi’l (d. 645/1247): see Maria, M., Mujeres en al-Andalus, Madrid, 2000 (Estudios Ománíticos Iberorromanos de al-Andalus, XI), 407.


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passage of someone who had once been faithful (mu'min, Muslim) to infidelity (jayf).
Apostasy is a crime punished in Islamic law by the death penalty, either death by the sword or decapitation. Crucifixion is contemplated in the case of a blasphemer. Exile is another possibility. In some Islamic texts, deviation from fundamental religious principles in the form of apostasy and heresy was regarded as treason against the state and revolt against the social order, thus existing the tendency of assimilating «apostates, rebels and brigands», as the title of Kraemer’s study reads.²

There was no part of pre-modern life that religion did not touch, and none therefore that did not touch religion. The adoption of heresy and the imputation of heresy to others were statements about communal membership and exclusion. A. Kuysh has remarked the danger of seeing the persecution of all manners of deviants as a clear proof of the fact that in Islam there was an «authentic» or orthodox religious dogma upheld by the majority of Muslims. Muslim intellectual life was, in Kuysh’s words, «a perpetual collision of individual opinions over an invariant set of theological problems that eventually leads to a transient consensus that already contains the seeds of future disagreements».³ It is «orthodoxy-in-the-making» (my own words would be that orthodoxy in Islam is not a thing, but a process), in which the most effective way to establish an «orthodox» creed was to assure its state support. On the other hand, the rulers had a vested interest in playing the role of umpires between factions of scholars, which again helped the fluidity of belief and practice. Accusations of heresy were among the means that those scholars had at their disposal to fight their struggles for the social, economic and political prizes bestowed by the rulers, as has been shown by M. Chamberlain.⁴ The I studies I have carried out of


promulgated by 'Abd al-Rahım III against the Mas'adis accusing them of ibtid, bid'a and zaygh, accusations accompanied by numerous terms of abuse, were read publicly in the mosques. ¹⁰

Accusations of heresy were occasionally exchanged among scholars merely as terms of abuse, arising from much the same mixture of intellectual ferment and personal intrigue that often go together in academic disputes. One of these cases could have been the accusation of zandaqa against Ibn 'Atıyya (d. 541/1147), for which no explanation is given in the sources, although it might have been provoked by his Ash'arism. ¹¹ Ibn García (5th/11th century) was accused of zandaqa because of his shu'ubism, as if being anti-Arab made him anti-Muslim. ¹² Rulers tried to control the social and legal impact of such accusations. This was the case of the Almohad caliphis, as shown by a letter from Abü Ya'qūb Ya' ṭa (559/1163-580/1184). ¹³

It was common in Islam to discredit the holders of a certain doctrine by assimilating them to members of another religion with formulas such as the Qadarites are the Zoroastrians of this community (al-qadariyya majlis haddhali al-unma) or the Shi'i's are the Jews of our community. ¹⁴ Tarif, the founder of the heretical religion of the Berber Barghawità, was presented as a Jew, as was the Fatimid 'Ubayd Allāh al-Mahdī. Some Andalusi heretics or suspects of heresy and devotion were said to be Jews. This happened, for example, with the philosophers Ibn Bījja (Avenpace) ¹⁵ and Ibn Rushd (Averroes). ¹⁶ A dead

¹⁵ The letter was declared to be so by Leo Africanus: see E2, s.v. Ibn Bījja [D.M. Dunlop].
Social isolation. Apart from the terms of abuse just mentioned, a mechanism to isolate and expose heretics recorded in Islamic law is not to pray behind them or, if the prayer had to be performed, to repeat the prayer immediately. When the practice of making the invocation in the name of the ruler, Almohad caliph after the prayers in congregational form was introduced into al-Andalus in the sixteenth century, some of the Mālikī fugabat, namely Abū ‘Abd Allāh b. Mujāhid (d. 574/1178) and his disciple Abū ʻInān al-Murtūqī, opposed it at the risk of their lives, wanting to make the point that the practice was to be rejected. Heretics and innovators should not be visited if they are sick and the funeral prayer should not be said when they die. The marriage of the heretic is considered to be invalid; if he repents, he has to marry again. The so-called barrier that believers should erect to isolate the innovator or heretic is the recurrent theme in Ibn Wadhāli’s Kitāb al-bīda. Those suspected in their doctrines might also be confined to their houses.

In principle, the only worldly legal consequence of non-performance of religious duties could be loss of probity and thus exclusion as a witness in court. In this sense, al-Jażrī (d. 585/1189) records a waqtība for invalidating witnesses on the basis of bad behaviour in matters pertaining to religion, such as performing usury, drinking wine, listening to singing slavegirls, being a liar. Validation also comes from not performing zahāt or prayer and other capital sins (kabā’ir) or, more generally, from fašt ḥa l-ḥa n (corruption in religion). As J. Wakin remarks, witnesses were persons to be emulated with respect to ethical and social standards; they were usually counted among the notables of the town and were in touch with many of the economic and social concerns of the community. The witnesses, persons certified to be of good moral character, penetrated the whole of society and were influential in preserving and spreading Islamic norms.

If they are not heretics, but innovators, there is no need to repeat the prayer: Ibn Ruddal al-Jądī, Bayān, XVI, 411. See also al-Wanahirī (d. 914/1508), al-Mīyār al-muṣīb wa-l-ṣiṣām al-mughrīb ‘in fasād al-ḥa ḥa n wa-l-Andalus wa-l-Mughrīb. 13 vols., Rabat, 1400/1981, VII, 117.


The reason being the non-observance of dietary restrictions on the part of the Christians.

Al-Jazıřī also records some documents that he describes as novelties and that had the function of stating someone’s good or immoral conduct. 34 Pressure made by family and friends of the heretic or deviant has left almost no traces in the extant sources, but it undoubtedly existed. 35 It is forbidden to engage in debate (muqādala) with innovators (ṣağhib al-ašār), as nothing can be gained from it and much can be lost, because they can incline you to their innovation or raise doubt in your faith. 36 Only those who are prepared and sure to come out victorious should do it. This was the case of the Cordoban traditionist Bāqil b. Makhlād (d. 276/890) who defeated in scholarly debate the Qadari Khalil al-Ghaffāl (second half of the 3rd/9th century). The latter’s books were burnt after his death. 37 It was also the case of Muḥyī l-dīn Ibn al-‘Arabī, who convinced a philosopher of the existence of miracles performed by saints. 40

Rejection and disapproval could be shown by pronouncing legal opinions which might have never been put into practice, but helped creating a «climate of opinion». For example, Mālik b. Anas (the founder of the Mālikī school of law) was asked about people in the Maghrib who followed a wrong ritual practice (they only made two rak‘as instead of four) and he said that they should be offered the possibility of repentance and if not, executed. 41 According to the Cordoban jurist Ibn al-Hājj (d. 529/1134), those who deny the punishment of the grave (fusūt al-qabr) and the arrival of the two angels must be beaten until they repent or die; in case they repent, they are free. 42 Who states that the Qur’ān is created will be invited to repentance and condemned to death if he does not. 43 Many Andalusīs are described as having been «ahhāsh against the innovators» (shādh‘ al-aḥā al-bīda‘), censoring and forbidding what was wrong and by their moral and religious authority stopping wrong practices or showing which

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34 al-Jazıřī, Muqadd, 406-8.
35 See al-Jazıřī, Muqadd, 407.
36 Ibn Wāḍārī, Kitāb al-Ju’d, IX, 2, 7, 9, 10, 13, 25; Ibn Rushd al-Ju’d, Baysan, XVI, 369-70, 382.
37 See Fierro, Heterodoxia, 91-3.
39 Ibn Rushd al-Ju’d, Baysan, XVI, 437.

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43 See on the voluntary performance of this precept Cook, M., Commanding Right and Forbidding Wrong in Islamic Thought, Cambridge, 2000.
45 See Fierro, Heterodoxia, 85 with references. The latter tradition (siwā ‘i l-badī‘ al-bīda‘ bi-l-shukrīh) would deserve a study of its own.
Destruction of books. A way to stop certain ideas spreading was the burning of books, as happened with the Zahiru Ibn Hazm (d. 456/1064). He, however, admonished the ‘Abbasid ruler of Seville responsible for it about the limits of the latter’s action, saying that his books could be destroyed but not their contents which remained in his heart.50 The books of the Qadari Khalil al-Ghafa were also burnt, but only after his death.51 The famous destruction of books of suspect sciences (those of the ancient) preserved in the library of the Umayyad caliph al-Hakam II was ordered by al-Mansur b. Abi ‘Amir, in an attempt to increase his level of religious legitimacy.52 These episodes might explain the fact that Mu‘tazili works did not circulate in al-Andalus, their absence being commented upon by the philosopher Ibn Rushd.53 And this was so in spite of the fact that Mu‘tazilism had been favoured by members of the Cordoban elites in the 4th/10th century.54 Official burning of books did not stop after Almanzor’s death. The Cordoban qad ibn Hamdun ordered the burning of al-Ghazali’s books during the Almoravid period.55 Fearing persecution, Abi Bakr b. al-A’rabi (d. 543/1148), who had been the main agent in introducing al-Ghazali’s works into al-Andalus, destroyed and threw into the sea his copy of al-Ihya.56 Under the Almohads, attempts at burning Mu‘tazili fort works are mentioned.57 After the persecution against Averroes, the Almohad caliph al-Mansur wrote a letter in which he ordered the burning of philosophical works.58 The burning of heretical books was supported by the Nasrid qad b. al-Bunnabi (d. 792/1390).59

Writing refutations. If debates in parthan with heretics and innovators were to be avoided, written refutations of mistaken or heretical doctrines were more acceptable. The Andalusis wrote treatises against innovations (kutub al-bida) in order to make it clear which practices and doctrines were wrong.60


Sa‘d al-Balluti wrote a book of raddi against sectarians and innovators (lost),61 so did Ibn Hazm and Abi Bakr b. al-A‘rabi.62 The latter, Mu‘tazili-Ash’ari, refuted the doctrines of the Zahiru Ibn Hazm.63 In fact, the refutation of Ibn Hazm’s or Zahiru doctrines seems to have been a common occupation of Andalusí scholars.64 Refutations of philosophy were written at the time of the trial of Ibn Rushd and the persecution of philosophers.65 The refutations could produce counter-refutations, as shown in the case of the well known refutation of philosophy by al-Ghazali and its refutation by Averroes.66 The same could happen regarding specific practices, as in the case of the invocation after prayer, studied by M. K. Masud. Al-Shafi ‘i opposed it. From a letter written by al-Shafi ‘i to one of his followers, it appears that an imam who rejected this practice in favour of al-Shafi ‘i’s position was deposed from imamc and was denied all other privileges and put on trial. Refutations were written against al-Shafi ‘i by his contemporaries al-Bunni (M. ‘alal al-da‘a’ bi‘da‘ al-salat) and Abi Sa‘id b. Lubb (max‘alat al-ad‘iyya bi‘da‘ al-salat). Al-Shafi ‘i’s disciple Abü Yuhayr b. ‘Asim (d. 813/1410) wrote a treatise refuting Ibn Lubb and supporting al-Shafi ‘i. Muhammad al-Fishtali, qad b. Fez, wrote a refutation of Ibn ‘Asim, supporting Ibn Lubb (Kalam fi l-da‘a’ bi‘da‘ al-salat ‘ala‘al-hay‘a‘al-ma‘bu‘da), Ibn ‘Arafa (d. 803/1400), qad b. Fez, also entered into the discussion when he was asked for fatwa on this issue by someone in Granada.67 All this activity had to do with struggles among scholars for the definition of correct belief and practice, and for the establishment of their own reputation as upholders of orthodoxy.


Prison. Those accused of heresy had to stay in prison during the trial and, if found guilty, they had to repent or face the possibility of repentance (issāṣa), according to the apostolic movement of the voluntary Christian martyr and the Nestorian apologist, Michael the Syrian. The heretic was then put in prison during the period of the tensions between heresies and heresies in the second half of the third/ninth century as a scholar of the urban elite, he was often appalled by the unhygienic conditions he had to face during his imprisonment. As a result of the trials during the period of the tensions between heresies and heresies, the Nestorian thinker, Michael the Syrian, was imprisoned and forced to repent. The philosopher Iba Fielden, in 1994, argued that the Nestorian thinker, Michael the Syrian, was imprisoned and forced to repent.

Physical punishment. This could be inflicted, even if torture was forbidden in principle. A story widely spread in Andalus (it appears in the Andalusia treatises against innovations) is the story of the innovator Sabiūn al-Diri, who was physically punished by 'Umar b. al-Khajjāl until he repented. The same penalty was applied by Ibn al-Hajj for those who denied the fitna al-ghabi, although it was probably never applied.

Execution. Those accused of heresy and blasphemy in Andalus who were sentenced to death were crucified and then buried to death on the cross, as happened in the cases of the blasphemers known as ‘Aja‘ib’s nephew, the Ghulābi, ‘Abd al-Khayr b. Ibn Hākim, the philosopher Ibn Ḥishāb al-Qāsimī and ‘Abd al-Wahhab b. ‘Abd al-Samad al-Samadī. This practice ran counter the legal

theory in favour of decapitation, defended for example by ‘Abd ‘Umar b. ‘Abd al-Barr (d. 563/1070).

According to a text by Ibn Sa‘id (d. 585/1286), the populace in al-Andalus had such hatred of philosophy and astrology that whoever studied them was labelled as a tānūh and risked being lashed or burnt without the sultan’s intervention. I have not found any evidence that such acts ever took place. The possibility of someone killing an heretic without the sultan’s permission was, however, discussed in Andalusia legal writings.

Exile (māf). According to a hādhī‘ transmitted by ‘A‘ishah, apart from execution, there was the possibility of exile as punishment for heretics. In the second half of the 14th/15th century, scholars became involved in a debate on the existence of miracles of the saints and al-Ma‘ṣūrī’s book, which sent the factions involved into exile. The philosopher Ibn Ruschid, after being publicly denounced as an heretic in the mosque, was sent into exile to Lucena (a town known as a ‘Lucea of the Jews’, as Ibn Ruschid had been accused of being of Jewish origin).

Loss of Muslim status. No funeral prayer could be said on the heretic, blasphemer or apostate, no Muslim could inherit from him, his property going to the baṣīr al-mal, and his marriage became null and void. In the case of the secretary Qāsim b. Antāyāt, the main issue of knowing whether he had died as Christian or Muslim was where his inheritance should go. In case of necessity, some jurists allowed the killing of religious deviants and rebels and eating them.

86 See Fierro, Heterodoxia, 53-7, 128.
88 See Fierro, “Hibridismo”, in vol. VIII/2 of Historia de España, 474.
89 See Elías, III, 750 (D. M. Dusky).
91 See Ibn Uṣaylī, Kitāb al-ṣāliḥīn, X, 8-10. See on Sabiūn al-Makki, Muslim Studies, II, 84.
93 See Fierro, Heterodoxia, 77-80.
95 See above note 99.
96 See Fierro, Heterodoxia, 183.
97 Ibid., 77-80.
HOW TO AVOID AND RESIST EXCLUSION, AND WAYS OF REINCORPORATION INTO THE COMMUNITY

The mechanisms of avoidance of and resistance to exclusion were autocensorship, writing defenses of your position and dissimulation.

Autocensorship. When people felt that certain practices were disapproved of or suspect in their orthodoxy, they might decide not to engage in them in order to ensure salvation in the other world and avoid exclusion in this. Muhammad b. 'Ali b. 'Ayyash (d. 546/1151) was imām in the Great Mosque of Cordoba. He was interested in medicine and decided to study in Seville with 'Ali b. Barrajin, expert in hadith and medicine, and the brother of the famous Shī'ī Ibn Barrajin, who died in Marrakech in suspicious circumstances. One day when Ibn 'Ayyash was copying books by Galen, he fell asleep and saw in dreams the muqarr Abū l-Hasan al-'Abbāsī, who scolded him for having abandoned the recitation of the Qur'ān and the hadith. When he awoke, he abandoned his medical studies and devoted himself to hadith. After some time, he saw again Abū l-Hasan in his dreams and this time the latter showed his approval of him. 65

Writing defenses of your position. Sa'īd b. Fathān defended himself against those who attacked him for his interest in logic, saying in a poem:

They insult this book, when they attribute to it what it does not contain, because they do not know it. If they understood its value, they would not despise it; if they knew its true merit, they would praise it. They lie, by God! If they knew it they would not attribute it what they do... 16

Abū l-Walid al-Bāji (d. 474/1081) was respected and sought after for his knowledge when he returned to al-Andalus after having studied in the East the art of polemics (juta), Ash'arī theology and Muḥkī ustū al-fiqh. In connection with his reliance on Prophetic traditions, al-Bāji transmitted the hadith according to which the Prophet wrote (kutaba) on the day of Ḥadad Bayyāna (hadith al-muqaddimah), and openly maintained that the Prophet did so, despite his being illiterate (amm). Al-Bāji encountered the hostility of an ascetic preacher who wanted to stress the illiteracy of the Prophet as a way of enhancing the miraculous nature of the Qur'ān. That hostility did not lead to al-Bāji being placed on trial, but he was publicly accused by the preacher of infidelity (kufr), heresy (sandoqah) and of introducing innovations (taḥdīth). Al-Bāji defended his doctrine of the hadith of Ḥadad Bayyāna by writing a detailed expose of his position and by obtaining the written support from other scholars. 57 We have seen already how the refutation of a certain doctrine gave often rise to the writing of counter-refutations.

Dissimulation or taqāyya. It was said of the Ḥanāfidī, caliph Qāsim b. Hārūn al-Rashīd that he was Shī'ī, but he concealed it. 68 Dissimulation was adopted mainly by the faṣāda, not only to escape persecution, but for the welfare of mankind, according to the following argument: reason may be universal, but not all men are able to grasp rational thinking. The faṣāda tended to assume a prudent, discreet posture in the societies where they lived. Ibn Ṭūfayl (d. 581/1185) stated that those who searched the truth with the only aid of reason were scarce in al-Andalus and that they talked about their results only in allegorical form, in order to avoid problems with the upholders of religious law. 69 Ibn Tūlūn (d. 620/1223) manifested himself favourable to dissimulation, praising al-Ghazālī for having altered the technical terms of logic and having disguised them with terms usual among the jurists in order to avoid persecution, as had happened to al-Fārābī. 70 Arrerros described the difficult position of the philosophers in non philosophische societies 71 and wrote his famous treatise on the compatibility between religion and philosophy. 72 Kraemer has shown that apparent deviants like the Muṭaqī or the faṣāda were not persecuted as such, because although they upheld the supremacy of reason over revelation, they expounded a system which retained the revealed law of Islam intact. Kraemer describes them like the dhimmīs of the Islamic state, a tolerated minority, who remained relatively free from harm provided they maintained a low profile and did not openly attempt to convert others to their views. 73

65 See Fierro, "Religion", in vol. VIII/1 of Historia de España, 425.
71 Kraemer, "Heresy versus the state in Medieval Islam", 179.
As regards accusations that led to trial, the strategies for avoiding punishment and for being re-incorporated into the community of believers were: to go into hiding or leave the country and wait for better times, to challenge the witnesses of the prosecution, to repent, to be pardoned by the ruler.

Hiding. The fact that trials for *zandaqa* had much to do with struggles between factions of scholars, meant that the passage of time could change the balance of force. Thus, going into hiding, as Baqi b. Makhdud, Ibn Hātim al-Tulaythī, the philosopher Dhahabī and others did, not only served momentarily to save their life (although not always in a permanent manner), but also allowed them time to wait for a reversal of the situation. The issue of the permissibility of giving shelter to an accused of heresy (*ilhād, zandaqa*) was discussed by the jurists in the case of Ibn Hātim, and they forbade giving a heretic refuge, on the grounds of Qur'an 38:22 and a tradition in which the Prophet is reported to have said: “Modina is sacred. Whoever introduces into it an innovation or shelters an innovator, upon him be the curse of God, the angels and the people all together.” Both texts make it clear that whoever helped a heretic would be doing something unlawful and therefore subject to punishment. Ibn Hātim had found refuge with the king of Badajoz, but when Ibn Labīd al-Murābīh arrived there with documents where such an action was deemed to be unlawful, the king disavowed any responsibility for Ibn Hātim. Ibn Bājja’s pupil ‘Abī b. Jādī (d. 530/1135), also considered a heretic and persecuted, had to escape and take refuge with bands. Abu Bakr b. Šārīn al-Iṣbahānī was also persecuted for *zandaqa*: fearing the death penalty, he decided to escape to the East, but died tragically in the burning of the house where he had taken refuge. Another scholar involved in philosophical studies, Sa‘īd b. Fūţūn al-Sarāqibī, left al-Andalus never to return.

Challenging the witnesses (*l‘dhār*). This legal possibility was usually denied by some of the jurists involved in trials of heresy, and even if granted, as in the case of Ibn Hātim, it revealed itself to be unsuccessful in freeing the accused. In Ibn Hātim’s trial, all the jurists consulted agreed that he should be granted the option of challenging the witnesses for the prosecution (*al-l‘dhār*), on the understanding that if he could produce convincing evidence against them, then the death penalty would be dismissed. In spite of the granting of the *l‘dhār*, Ibn Hātim must not have felt safe, because he escaped from Toledo. Later on, other jurists consulted in his case were of the opinion that the *l‘dhār* should not be granted on two grounds: that the *l‘dhār* weakens the testimony of a witness whose probity has been certified beforehand, and that a precedent had been established in a former case, that of Abī l-Khayr, who, when the Umayyad caliph had supported the faction that was against granting the *l‘dhār* to him. Other jurists, however, like Ibn Sahl, insisted that Maliki doctrine was in favor of every accused having the right to challenge his accusers on account of the possibility of enmity existing between them. Ibn Hātim was finally granted the *l‘dhār* and given two months to challenge the testimonies against him. But he was by then in Cordoba, whereas the trial against him had taken place in Toledo. After the two months granted for the *l‘dhār* had passed, Ibn Hātim was considered not to have been able to challenge the witnesses and was crucified (pierced to death on the cross with lances).

Witnesses were essential for the trial to take place. When al-Yuhānī informed the governor of Málaga of the behaviour of the false prophet al-Fazārī, the governor told him: “Two witnesses against him would be enough evidence to sentence him to death by decapitation.” In some cases there was no need for witnesses, as heretical books were considered to be enough evidence. Al-Bunānī (d. 792/1390) wrote:

> If some written material, dealing with philosophical matters, which are contrary to the *shari‘ah* is found in someone’s handwriting, the practice is to examine the writing. If it is clear that it is in his hand-writing and that it is written as his opinion or implies his agreement to that matter the case will be decided against him, even if he denies verbally and even if it is a quotation from a book of philosophy.

> Who could be worse than the person who possesses such books. Such books must be burnt and such persons must be punished.”

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96 See Pierro, “Religion”, in vol. VIII/2 of Historia de España, 471.
97 LA, 475.
The trial could lead to a proclamation of innocence of the accused, as was the case with al-Talhami: the qādī of Saragossa rejected the accusations against him and produced a certificate attesting his innocence. 103

The accused and those jurists who were against capital punishment could also insist that the case was ambiguous and, therefore, that someone who was not a kāfir could be condemned as such. This was argued in the case of the alleged blasphemer Hārūn b. Ḥabīb, who escaped the death penalty and had to suffer only prison and taʿzīr. 104 What is clear from the trials on which we have data, is that even if the jurists involved belonged all of them to the same school, there was always discrepancy among them and there was always someone who was in favour of acquitting or exculpating the accused.

The false prophet al-Fazārī alleged that his followers attributed things to him and spread them around, and that those things were not true. Al-Yūsufī commented that al-Fazārī should have left his followers, especially if he were innocent. 105

Istitāba. The accused could regain his freedom by accepting the possibility of repentance and showing it. However, that did not ensure anything: the nephew of ‘Abd, accused of blasphemy, stated his belief in God, but nevertheless was executed. 106 Documents of recantation of apostates and unbelievers have been preserved. 107 One of those documents refers to the case of a person who left Islam either for Judaism or Christianity

because a humiliation that humiliated him or for an anger that angered him, he escaped from himself and threw away Islam behind his back... and proclaimed his infidelity and made it public. Afterwards, the magistrate such and such contacted and fetched him, informing him of what he had entered into and explaining to him the ugliness of what he had done and what felony he had perpetrated against himself. The magistrate reminded him of Islam and the merit (fasda) of his religion and the religion of his fathers and exhorted him to return to it and to cling to it. God reconciled him to his good direction and inspired him towards taking the exalted line of the salvation of his soul from the punishment of God. [The apostate] returned to the religion of Islam and entered it, confessing to God with

His divinity and thanking God for what had inspired him and the favours bestowed upon him for his escape from infidelity towards faith and the adherence to the religion of Islam. And he performed a major ritual abjuration for his return and prayed and testified that there is no god but God alone who has no partner, and that Muhammad is His servant and His Messenger and the seal of His prophets and messengers, and that the religion for God is Islam and that He accepts no other religion or is satisfied by any other, and that whoever follows a religion other than Islam, it will not be accepted from him and in the other world would be among the deprived (al-khāsirān). 108 He is declared free of the Jewish religion in which he was and curses iblis the repelled (al-manfūd) who incited him to it and turned him to it. 109

Another document of istitāba says:

Fulān b. Ḥulān al-Isāli of the people of such place, being in health and capable, testifies that he abandoned Islam. [Later] he repeated of his infidelity and apostasy, and came back to the religion that God does not accept other than it from his creatures and does not consider good the deed of anyone unless it comes from it. And testifies to God with what God testified of himself of His wakil. His angels and those who possess him and uphold justice testified for him that there is no god but Him the Powerful the Wise. And he bears witness that Muhammad is the Messenger of God that He sent with the right path and the religion of truth to make it manifest over all religion, to the absence of polytheism. And he testifies that the religion for God is Islam... it will not be accepted from him and he will be in the other life among the khāsirān. 108

Pardon. In the case of exile, rehabilitation did take place: the scholars exiled by al-Manṣūr and the philosopher Ibn Rusd returned to the ruler’s favour. 101

103 See Pierro, «El proceso contra Abū ‘Umar al-Talhami», 122. An example of such a certificate is given above (note 36).
104 See Pierro, Heterodoxía, 63-70. Of course, this defence was successful mainly because the accused was the brother of an influential of the time, Abū al-Ma‘āk b. Ḥabīb.
105 Ahmad al-Qushṭašī, Zafāj, 82.
106 See Pierro, Heterodoxía, 59.

108 This quotation of Qur’an, 3:85 was widespread in al-Andalus during the sixteenth century and under the Almohadid. H. Kassab sees in it evidence of Muslim fear that apostasy will occur within the community at a time of Christian military success and territorial gains: see Kassab, H. E., «Muslim revival in Spain in the fifteenth-sixteenth century. Causes and ramifications», Der Islam, 67 (1980), 76-110.
109 Ibn Mughītī, Maqāṣid, 346-7, n. 63.
110 Ibn Mughītī, Maqāṣid, 349-50, n. 65. Al-Ja‘fārī records a similar one (Maqāṣid, 425), in which al-Shaykīn is given more protagonism: he induced the apostate and led him astray until God brought the apostate back to the right path and made him repent, saying that there is no god but Him the Powerful and the Wise, that Muhammad is His servant and Messenger and that the religion of God is Islam, and that he who seeks another religion, it will not be accepted from him and in the other world he would be among the khāsirān.
111 See on the former Pierro, Heterodoxía, 168, and on the latter note 49.
In the case of a scholar accused of heresy, the inclusion of his name in a biographical dictionary without mentioning any accusation or deviation could be taken as evidence that his memory was vindicated: this is the case of Sifis like Ibn al-Arif or Ibn Barranin. Muslim biographical dictionaries of scholars and others might show a tendency towards inclusion more than towards exclusion. The doctrine considered heretical could be described but without giving the name of its holder. If the accusation were mentioned, the words or deeds that led to it could be explained away as being those of an ignorant or drunk person, of someone who was just joking (care of blasphemy pronounced by the nephew of 'Ali), of someone angered or infuriated (the case of the young Muslims who apostatized in Sicily) or of a mad person.

During the 5th/11th century there was in al-Andalus a current of religious skepticism and relativism that led to the doctrine of the «equivalence of proofs» (takafa al-adila), according to which there was no way to prove the existence of God and of prophecy, or to prove which, if any, religion contained the truth. The Jewish doctor Ibn al-Qarad, when invited by Ibn Hazm to convert, answered that to change religion was a mockery (al-intifal fi l-malal talat'ub).

One of the effects of his skepticism can be seen in the following case: when Toledo was conquered by the Christians, a Muslim scholar converted to Christianity saying that the God of both religions was the same and therefore he had no qualms about his conversion or apostasy. For religious skeptics or relativists, religious differences were of no importance.

Finally, the followers of a new doctrine would feel that there was no need for them to try not to be excluded from a community to which they felt no longer belonging. This must have been the case with the followers of the Shi'i Ibn Qaisi, who called themselves ghurabah, «strangers», making reference to the hadith that says «Islam started by being stranger and it will again be stranger» (bad'a l-islam gharban wa-sa-yad' ud gharban kana bad'a). Many are the interpretations of this hadith, but one of them could be that, in the same way that at the beginning Muslims were considered to be strangers, so renewal must come from people who will be considered strangers or deviants by their contemporaries, although they are the true Muslims.

CONCLUSIONS

Persuasion and suppression of heresy took place through a number of practices that can be best described as «diffuse» or «informal», as M. Cambreronia has shown. Labels of heresy conveyed the idea of impurity; heretics were not only non-Muslims, but they were even becoming like Jews and Christians. There were mechanisms of social and religious exclusion related to the fields of prayer, funeral practices, inheritance, marriage. Loss of probity barred the access to become witness, a position of authority and prestige in the community, those who set ethical and social standards, and rank among the urban hierarchy. Scholarly life revolved around meetings and debates: the company of heretics was avoided, refusing to engage in discussions with them; if debate took place, those victorious were those who could claim to be

Muhammad b. 'Ali b. Khaalaf al-Tajab, who as a Makkah was under pressure on the part of the Almohad caliph in Marrakesh; see Bentoiou, «Les savants mix à l'époque», 332, n. 16.


See note 8 and quotation below.
«orthodox» and their victory was recorded for posterity. Criticism and rejection of heretical words and deeds were recorded in different kinds of works, including legal opinions (fatwā), usually advocating the death penalty: regardless of whether they ever acted upon (and it happened very rarely), their mere existence contributed to create fear and to establish disapproval and repugnance. Books were burnt at a time when writing a book was a long and expensive endeavour and when few copies of a work were in circulation. Even if, as Ibn Hazm pointed, the burning of a book did not burn the memory of its writer, the writer would eventually die and with him its memory. Heretical doctrines, even if the books that contained them were burnt, could be preserved in the refutations written of them. The advantage of this kind of preservation of heretical doctrines is that they could reappear and, at least, their refutation will then be available to future scholars. Special treatises against innovations, mainly in the field of ritual practices, were written as repositories of what had to be avoided.

But there were also stronger measures. The voluntary or official muḫtaṣib may act publicly against the heretic, starting a more specialized procedure ending up in trial. Witnesses made accusations of zandaqa signing special documents. The qāṭī' proceeded to bring the accused to trial. 123 In case the latter was granted the possibility of repentance, a special document was ready for him to sign. In case he was not granted it, he still could try the possibility of challenging the witnesses for the prosecution. While in prison, he could be subject to physical punishment. If execution was sentenced, it was public and involved being crucified alive and then pierced to death in the cross. Exile was another possible punishment which had the advantage that it might be followed by pardon and rehabilitation.

M. Chamberlain has insisted on the fact that in Islam there was no sovereign or autonomous body capable of planning and carrying out long-term ideological strategies and there is no evidence of state or corporate bodies with jurisdiction over heresy. In Mamlûk Damascus:

As there were no specialized agencies for determining truth from error, there were no specialized procedures such as trials or inquisitions. The form the identification and suppression of error took was usually the debate, in which a powerful amir or a group of scholars invited the object of their suspicion to debate

with a shaykh in an audience before the a'yan. This crossing of the procedures of the trial before a qāṭī' with the debate among scholars raised inevitable ambiguities... Although many involved in such events were qādis, the «suppression» of heresy did not take the form of an official trial... When we encounter fatwas and debates dealing with the struggle to define truth, these were objects and instruments of political competition and not formal mechanisms or procedures. When the ruler or governor took part in these struggles, it was usually at the instigation of an outside group; and in any case his interest was usually in maintaining a balance between social peace and the satisfaction of the scholarly factions that supported him. 114

The Andalusí material, however, shows the existence of official trials in cases of accusations of heresy. It is true that all the accusations of heresy recorded, formal trials took place in few cases during the existence of Andalusí Muslim society. In those cases, the accusation of zandaqa was closely connected to political strife. Because of that, it is difficult to establish to what extent the accused were truly «heretics», that is, whether the accusations made against them were forged in order to get rid of political opponents who had no devout religious doctrine (this seems to have been the case of Ibn Hātim). The cases of Abū l-Khayr and Ibn Hātim show that suppression of heresy could take the form of an official trial, with formal procedures and documents. Abū l-Khayr’s trial constituted a precedent that was referred to in Ibn Hātim’s regarding the granting of a legal procedure (iḥār).

There is no clear evidence for the presence in al-Andalus of heretics «grand style» such as Ibn al-Rāwandi, that is, enemies of the Islamic creed. 115 There were, of course, rationalists who in many cases were not persecuted at all, 116 probably because they were not anti-religious. As Kraemer has shown, there are some circumstances wherein radical views can be propounded with impunity, but they might also arise the repressive apparatus of the state to action; active pursuit and suppression of zandaqa was often contemporaneous with heightened activity of heretical revolutionary movements. 117 In al-Andalus, persecution of heretics and blasphemers was historically associated with the threat of the Fatimids, with Christian military success and with the fear of extreme Sufism.

123 The qāṭī' did not act preservatively, as did the police officers (ṣathib al-ḥabs) and he was not entitled to pursue a case ex officio without the necessary legal evidence or personal knowledge: see Miller, Ch., «Judging with God’s law or ex official intellect, judicial powers of the qāṭī' in Idrîs from Córdoba in the middle-twelfth century», Islamic Law and Society 7 (2000), 159-186, 166 and 163.

114 Knowledge and social practice, 174.

115 See Stroumsa, Foothinkers of Medieval Islam, chapter 2.


117 Kraemer, «Heresy versus the state», 75.
Persecution and punishment could be avoided by dissimulation of one’s beliefs (taqṣīr), a mechanism particularly developed by the philosophers and the Shi‘ites. Religious relativism could also be of help when pressure was put on conversion, and this applied especially to members of other religions. The followers of a new doctrine would feel that there was no need for them to try not to be excluded from a community to which they felt not belonging anymore, as seems to have been the case of Ibn Qasî’s followers.

Rencunation of heretical temptation could be voluntary, brought about by having been convinced of its error in a debate or by receiving information from the other world (dreams) about what should be done or said and what not. Another possibility was to write a defence of your own position in order to show that it was not heretical. Destruction of books, as Abî Bakr b. al-‘Arabî did with his copy of al-Ghazâlî’s Ḥujâ’î, implied fear, but also perhaps that one had been convinced that they were wrong.

As for reincorporation, in the case of a scholar, the inclusion of his name in a biographical dictionary without mentioning the accusation could be taken as evidence that his memory was vindicated. Also, the doctrine could be described but without giving the name of its holder. If the accusation is mentioned, the words or deeds that led to it could be explained away as being those of an ignorant, mad or drunk person or those of someone angered or infuriated.

In the case of a trial having taken place, one way to avoid punishment was to escape and to go into hiding, hoping for pardon. During the trial the witnesses might be challenged or insistence might be put on the fact that to prove heresy is not easy. The ḥāṣibû on the subject of innovators and innovations reveal the reluctance of the fuqâ‘î to commit themselves to an uncompromising attitude on a matter so elusive and difficult to define. The Andalusi Ibn Sahl (d. 486/1093) has preserved in his collection of nawzûl entitled al-Abkâm al-kabûrâ the answers given to the question of the difference between the innovators (ahl al-bida‘) and grave sinners (ahl al-kabû‘îr) or whether innovators should be declared infidels. Almost all the answers indicate the deep dislike of dealing with such a polemical issue on which there were so many different opinions both within the Mâlikî school itself and outside it. The final statement of the jurists consulted is generally that the destiny of both groups depended upon the will of God. 138


**ABSTRACT**

What were the mechanisms by which exclusion of heretics, apostates and innovators operated in a pre-modern Islamic society, that of al-Andalus? What were the mechanisms or strategies by which those labelled as heretics or as religious dissenters managed not to be excluded or if they had been, managed to be reincorporated into their social and religious milieu? This article seeks to provide answers to these questions, drawing on previous studies carried out on accusations of apostasy, heresy, innovation and blasphemy that took place in al-Andalus.

**RESUMEN**

¿Cuáles fueron los mecanismos mediante los cuales se llevó a cabo la exclusión de herejes, apóstatas e innovadores en una sociedad islámica pre-moderna como la andalusí? ¿Cuáles fueron los mecanismos o las estrategias mediante los cuales los acusados de herejía o desviación religiosa lograron no ser excluidos de la comunidad o, en el caso de serlo, consiguieron la reincorporación a su medio social y religioso? Este artículo busca dar respuesta a estas preguntas, basándose en estudios previos sobre las acusaciones de apostasía, herejía, innovación y blasfemia que tuvieron lugar en al-Andalus.