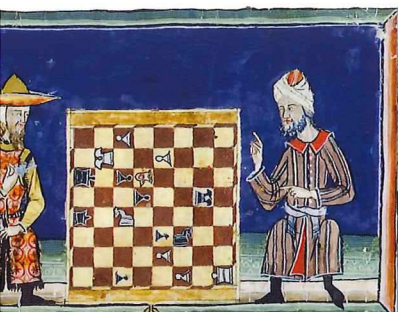


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A HISTORY OF JEWISH-MUSLIM RELATIONS

From the Origins to the Present Day



Another instance of forced conversion occurred during the reign of the sixth Fatimid sultan, al-Hakim Bi-Amr-Allah (996–1021). Although of lesser scope, it too arose from the aberrations of an emir who pursued coercion to impose his own truth, despite religious and social resistance. The historiographical sources draw an unflattering portrait of the sultan and agree that he tended to rule by the saber. His desire to compel the Jews to convert must be cited alongside his other decisions: forcing them to work at night, prohibiting them from consuming some fruits and vegetables, and so on. Al-Maqrizi, the historiographer of the Fatimids, indicates that the wrong committed against the Jews and Christians caused a collective malaise, and that the sultan, faced with protests from all sides, reversed course.

1. [Verses from the Qur'an are taken from *The Koran*, trans. N. J. Dawood (New York: Penguin, 1995) – JMT.]
2. Quoted in Bernard Lewis, *The Jews of Islam* (Princeton, NJ: Princeton University Press, 1984), 71.
3. Al-Marrakushi, *The History of the Almohades [Kitab al-Mu'yik fi talkhis akhbar al-Maghreb]*, ed. Reinhart Dozy (Leiden: E. J. Brill, 1881), 223.



Chapter III

In Christendom

The Legal Status of the Jews and Muslims in the Christian States

John Tolan

In the Muslim societies of the Middle Ages, Jews and Christians had the status of *dhimmīs*, protected but at the same time inferior. In the Christian kingdoms of the Middle Ages, Jews and sometimes Muslims lived under similar conditions with respect to the Christians. But their status became increasingly precarious in many European countries. Minorities were subjected to violence and expulsions. For example, the Jews were expelled from France in 1182, again in 1306, and once more in 1394; from England in 1290; from Spain in 1492; and from Portugal in 1497. The Muslims were expelled from Sicily in the thirteenth century, then gradually from all the Christian nations on the Iberian Peninsula.

John Tolan

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The Roman foundations of the Jews' status in Christendom

The legal foundations for this minority status can be found in Roman legislation of the fourth and fifth centuries. The Theodosian Code, promulgated in 438, is a collection of laws decreed by emperors from Constantine I to Theodosius II. Book 16 of the code deals with questions of religion.¹ It marks the establishment of Christianity as an actual state religion, with, for example, privileges and exemptions for some members of the clergy. Different laws of the code deal with Judaism, often called a "superstition" or a "sect." The Jews were prohibited from proselytizing, marrying Christians, holding certain public posts, mocking the rites and certain beliefs of the Christians, having Christian slaves, circumcising their slaves, and so on. At the same time, however, other laws protected the Jewish communities: they were guaranteed the right to practice

their faith and to have synagogues. The Jewish patriarch and chief rabbis were granted exemptions and privileges similar to those of the Christian clergy. The historian Amnon Linder even speaks of the establishment of a true “Jewish church.”² Some of these laws designate Judaism not as a “superstition” but as a “religion,” just like Christianity. Under the Christian Roman Empire, Judaism (unlike, for example, paganism, which was banned) became a legitimate religion, though clearly inferior to Christianity.

Roman law, of course, had a profound influence on the Christian states of the Middle Ages, especially on the Eastern Roman Empire (improperly called “Byzantine”). The reforms of Justinian (527) included a revision of legislation concerning the Jews that confirmed their minority status (protected and inferior). The Justinian Code became the foundation for Byzantine law and an important source of Latin European jurisprudence, both in canon law and civil law. Theology also contributed toward justifying and defining the inferior status of the Jew. Augustine, for example, explained that the Jews must be allowed to live in peace within the Christian community because they preserved the sacred Hebrew texts in their original language and because they were the living witnesses of the punishment God imposed on them for having refused to acknowledge Jesus as their messiah. This is the reason they were banished, exiled to the four corners of the world to live in poverty. Paradoxically, this view justified both tolerance of the Jews and oppression: they must be allowed to live in Christian lands, Augustine said, but they must also submit to the yoke of the dominant society.

In addition, they must all convert to Christianity at the end of time. This dual legacy, legal and theological, clarifies both why the Jews could live within Christian societies and the precariousness of their existence.

The Muslims in medieval Christian Europe

Beginning in the eleventh century, during the Christian conquests of Muslim territories (in Sicily, the Holy Land, and on the Iberian Peninsula), many Muslims found themselves under the yoke of Christian princes and were often granted a status analogous to that of the *dhimmīs* in the Islamic world. Various juridical texts define the legal status of the Muslim under Christian domination: capitulation treaties, municipal and royal charters, and acts of ecclesiastical councils.³ These documents show that Muslims in the Christian kingdoms could be slaves, free peasants, artisans, or mercenaries in the royal armies. The Muslims’ right to practice their faith was generally assured. Their conversion could only be voluntary and, of course, only to Christianity. The laws tried to maintain a certain level of segregation. In theory, the Muslim was to be socially inferior to the Christian, just as the *dhimmī* in Islamic countries was inferior to the Muslim – or as the Jew was in Christian kingdoms. The legislation concerning Muslim minorities was derived from the traditional laws limiting the place of the Jews in Christian society: according to canon law, the Jews were not to have the slightest power over Christians. In particular, they could not have Christian slaves or

hold public positions. Later legislation extended these principles to the Muslims. The Third Lateran Council (1179) prohibited Jews and Muslims from possessing Christian slaves—a prohibition often repeated in royal legislation (for example, in the *Siete Partidas* of Alfonso X of Castile). Various *fueros* (charters granted to cities in Spain) prohibited the Jews and the Muslims from being judges in cases involving Christians.⁴

The Muslims, like the Jews, were granted the right to practice their religion and to have places of wor-

ship. Alfonso X, king of Castile and León (r. 1252–84), affirmed, for example, that the “Moors” could live “observing their law without insulting our own.” Their mosques were royal property. The sovereign could therefore do with them as he pleased. Implicitly, that provision included the possibility of turning them into churches or of setting some aside to continue to serve as mosques.⁵ Such tolerance, however, tended to erode over time. A good example is the right of *adhan*, the call to prayer by the muezzin, which was often among the concessions granted. In 1311 the Council of Vienne prohibited the *adhan* in Christian territory. But that prohibition would not always be respected: in Valencia, various kings and lords in the fourteenth and fifteenth centuries refused to apply it or granted dispensations, sometimes incurring the wrath of the ecclesiastics.⁶

Limiting social promiscuity

Many laws were aimed at banning any sexual relationships between Christians and non-Christians. Marriage was prohibited, of course, except in cases where a Muslim or Jew who was already married converted to Christianity. According to Gratian’s Decree (twelfth century), that person had the right to remain married to a non-Christian spouse, a right that Pope Gregory IX confirmed in 1234.⁷ In Christian Spain generally, the Christian woman and Muslim or Jewish man who had sexual relations faced great risks. But that was not the case for a Muslim or Jewish woman and her Christian lover. The *fuero de Sepúlveda* stipulated that a Muslim man who slept with a Christian woman would be thrown off a cliff, and his lover would be burned at the stake; in the *fuero de Béjar*, both were to be burned. The *Siete Partidas* of Alfonso X were somewhat more merciful toward the Christian woman: the Muslim or Jewish lover was to be stoned, while his



A man raising his club against a group of Jews. Margin illustration in the chronicle of Matthew Paris, *Flores Historiarum*, Westminster, fourteenth century. London, British Library, Cotton Ms. Nero D. II, fol. 183 verso.

accomplice would lose half her property. If she was married, she risked the death penalty; if she was a prostitute, the two lovers would be whipped together throughout the city. In all cases, the penalties were harsher for repeat offenders.⁸ Contact with a religious adversary was often seen as an element of corruption or pollution that was to be avoided. Certain *fueros* did not allow non-Christians to go to the public baths on the same days as Christians.⁹ Christian wet nurses were not allowed to breastfeed Jewish or Muslim children, nor could Christians employ Muslim or Jewish wet nurses.¹⁰ Better enforcement of sexual prohibitions was also the reason for imposing (or attempting to impose) clothing restrictions. This was particularly true in the case of the Fourth Lateran Council in 1215, which ordered “Saracens”

“Muslims and Jews were lumped together because of their supposed hostility toward the Christians. Both were ‘blasphemers’ according to the council.”

and Jews to wear distinctive clothing in order to prevent sexual relations, or rather, to prevent Christians from using the pretext of ignorance to justify their affairs with non-Christians. These measures, which were supposed to apply to all Christendom, were very unevenly enforced. Sumptuary laws

that imposed distinctive signs on the Muslims or that prohibited them from wearing “Christian” clothing were reiterated many times: at the Cortes of Seville in 1252, at that of Valladolid in 1258, and again at that of Seville in 1261, proof that the measure decreed by the council of 1215 was not respected to any great extent.¹¹

It was not only sexual corruption but also spiritual corruption that was feared. Innocent III and the Fourth Lateran Council endeavored to spare the Christians from the mockery and blasphemy of the “infidels.” To protect the Holy Week rituals from such contamination, the council did not hesitate to ban Muslims and Jews from public places during that period, as Spanish legislation would also do.¹² Muslims and Jews were lumped together because of their supposed hostility toward the Christians. Both were “blasphemers” according to the council, which claimed that members of these two groups would parade during Holy Week in gaudy clothing, making fun of the Christians who were ritually expressing their sorrow in commemoration of the Passion of Christ. That hostility was specifically invoked to justify the ban on holding public positions: a “blasphemer” could not be given the slightest power over a Christian. A polemical view of Islam and Judaism fed these decisions of the Fourth Lateran Council: without enumerating or distinguishing the different “blasphemies” of the Muslims or Jews, the council affirmed that these were sufficient to justify the exclusion of the minorities from every post of authority.

The fear of apostasy

The problem of conversion recurs often in these documents. Alfonso X the Wise made it the principal subject of *título* 7.25 of the *Siete Partidas*, “On the Moors”:

seven of its twenty laws are devoted to it. Five concern the punishments to be imposed on Christians who convert to Islam. Apostates would lose all their possessions, which then became the property of heirs who had remained Christian; converts could be accused of that crime for up to five years after their death. Even if they returned to Christianity, they would lose the right to hold office, to bear witness, and to enter into purchasing or sales contracts. In the political and military context of thirteenth-century Castile, the fear of conversion to Islam corresponded to a very real danger: conversions often occurred during captivity in Islamic territories or accompanied an act of political treason.¹³

By contrast, the conversion of a Jew or Muslim to Christianity was desirable, according to the *Siete Partidas*, but it had to be voluntary: Christians must try to convince by reason and example, not by violence or constraint. No one had the right to prevent a Muslim or Jew from converting to Christianity, or to call the convert *tornadizo* (renegade or traitor), or to insult him or her. It was the fear of being the object of such insults, along with force of habit, that according to Alfonso would prevent Jews and Muslims from converting. The kings of Aragon promulgated similar laws to protect converts from insults and the loss of their inheritance.

All that legislation tended at once to protect the minorities and to circumscribe their rights. The various interest groups could converge or diverge. For example, the religious authorities of the minorities (imams and rabbis) and of the majority (the Christian clergy) all sought to avoid sexual promiscuity among people of different faiths. Many a Christian king or prince granted privileges to individuals or groups (Jewish physicians or courtiers, the Muslim militia) to undermine the power of other groups (vassals with large holdings, burghers). This created tensions and jealousies that were often more than strictly religious disputes. The legal status of religious minorities in Christian countries was ultimately much more fragile than that of the *dhimmī*, which was well rooted in the founding texts of Islam. Muslims and Jews lived in the Christian kingdoms at the king’s or queen’s pleasure, and nothing kept sovereigns from expelling them, which they did increasingly as the Middle Ages came to an end.

1. *Les Lois religieuses des empereurs romains de Constantin à Théodose II, 312–438*, vol. 1, *Code théodosien*, book 16, repr., Theodor Mommsen’s text with a French translation by Jean Rougé and notes by Roland Delmaire (Paris: Cerf, 2005). [English edition: *The Theodosian Code and Novels, and the Sirmundian Constitutions*, trans. Clyde Pharr (Princeton, NJ: Princeton University Press, 1952) – JMT.]

2. Amnon Linder, “The Legal Status of the Jews in the Roman Empire,” in *The Cambridge History of Judaism*, vol. 4, *The Late Roman-Rabbinic Period*, ed. Steven T. Katz (Cambridge: Cambridge University Press, 2008), 128–73. See also Amnon Linder, *The Jews in Imperial Roman Legislation* (Detroit: Wayne State University Press, 1997); Daniel Boyarin, “The Christian Invention of Judaism: The Theodosian Empire and the Rabbinic Refusal of Religion,” *Representations* 85 (2004): 21–57.

3. See John Tolan, “The Social Inferiority of Religious Minorities: *Dhimmīs* and *Mudejars*,” chap. 3 of Henry Laurens, John Tolan, and Gilles Veinstein, *Europe and the Islamic World: A History*, trans. Jane Marie Todd (Princeton,

NJ: Princeton University Press, 2012), 49–69; Andrea Mariana Navarro, “Imágenes y representaciones de moros y judíos en los fueros de la corona de Castilla (siglos XI – XIII),” *Temas medievales* 11 (2002–3): 113–50.

4. Navarro, “Imágenes y representaciones.”

5. Alfonso el Sabio (Alfonso the Wise), *Las siete partidas* (Madrid: Atlas, 1807; 1972), § 7.25.1. See John Tolan, *Saracens: Islam in the Medieval European Imagination* (New York: Columbia University Press, 2002), 174–75, 186–93; Robert Burns, “Jews and Moors in the *Siete Partidas* of Alfonso X the Learned: A Background Perspective,” in *Medieval Spain: Culture, Conflict, and Coexistence*, ed. Roger Collins and Anthony Goodman (Basingstoke: Palgrave Macmillan, 2002), 46–62.

6. Maria Teresa Ferrer i Mallol, *Els sarraïns de la corona catalano-aragonesa en el segle XIV: Segregació i discriminació* (Barcelona: Consell Superior d’Investigacions Científiques, 1987), 88–94.

7. Gratian, *Decretum*, causa 28. For Gregory IX’s confirmation of the decree in 1234, see *Responsiones ad dubitabilia circa communicationem christianorum cum saracenis*, in Raymond de Peñafort, *Summae*, 3 vols., in *Universa Bibliotheca Iuris*, ed. Xavier Ochoa and Aloysius Diez (Rome, 1976–1978), 3:1024–36, chap. 11; John Tolan, *Les relations entre les pays d’islam et le monde latin du milieu du x^e siècle au milieu du xiii^e siècle* (Paris: Bréal, 2000), 164–69.

8. Navarro, “Imágenes y representaciones,” 144; Alfonso el Sabio, *Las siete partidas*, § 7.25.10, § 7.24.9.

9. James F. Powers, “Frontier Municipal Baths and Social Interaction in Thirteenth-Century Spain,” *American Historical Review* 84 (1979): 649–67.

10. Joseph O’Callaghan, “The Mudejars of Castile and Portugal in the Twelfth and Thirteenth Centuries,” in *Muslims under Latin Rule, 1100–1300*, ed. James Powell (Princeton, NJ: Princeton University Press, 1990), 11–56, esp. 31.

11. Lateran 4, canon 68, in *Les conciles oecuméniques: Les décrets*, vol. 2, part 1 (Paris, 1994), 567; O’Callaghan, “The Mudejars of Castile and Portugal,” 30–31.

12. Lateran 4, canon 68. On the Crown of Aragon, see Elena Lourie, “Anatomy of Ambivalence: Muslims under the Crown of Aragon in the Late Thirteenth Century,” in Elena Lourie, *Crusade and Colonisation* (Aldershot: Variorum, 1990), 52; David Nirenberg, *Communities of Violence: Persecution of Minorities in the Middle Ages* (Princeton, NJ: Princeton University Press, 1996). On Castile, see O’Callaghan, “The Mudejars of Castile and Portugal,” 44.

13. See Robert I. Burns, “Renegades, Adventurers, and Sharp Businessmen: The Thirteenth-Century Spaniard in the Case of Islam,” *Catholic Historical Review* 58 (1972): 341–66; Nirenberg, *Communities of Violence*, 128n4; Mikel de Epalza, *Fray Anselm Turmeda (Abdallah al-Taryuman) y su polémica islamo-cristiana* (Madrid: Hiperion, 1994); Dwayne Carpenter, “Minorities in Medieval Spain: The Legal Status of Jews and Muslims in the *Siete Partidas*,” *Romance Quarterly* 33 (1986): 275–87; and, by the same author, “Alfonso the Learned and the Problem of Conversion to Islam,” in *Estudios en homenaje a Enrique Ruiz-Fornells*, ed. Juan Fernández-Jiménez, José Labrador-Herraz, and Teresa Valdivieso (Erie, PA: ALDEEU, 1990), 61–68.

Jews and Muslims in Sicily

The Muslim occupation of Sicily from 827 to 1071 led to the Arabization of the Jews on the island and their submission to the *dhimma* system. The reconquest by the Normans resulted in the establishment of a kingdom founded on an implicit but lasting pact of coexistence between communities: the Normans extended the *dhimma* to the Muslims, a minority at that time, and consolidated the foundations of jurisdictional autonomy and personal law for both the Jews and the Muslims. These minorities were considered “serfs of the Royal Chamber,” that is, immediately dependent on the king; they were both subject to the *jizya* and citizens of the cities. The ecumenical kingdom of the Normans lasted more than a century, but it was swept aside by crises of succession within the Hauteville dynasty. The central power, weakened by the regencies, could not protect the Muslims, who took up arms. Their unwitting revolt ultimately led to their being forcibly displaced to Lucera, Apulia, under Frederick the Great. The emperor made some of the émigrés his Saracen guards and reconstituted an autonomous community for them. Until the end of the Middle Ages, even after the failure of the plan for coexistence, autonomy remained the rule for the Jewish community of Sicily, which displayed constant loyalty to the royal power. The state also recognized the validity of the Muslims’ institutions – notarial practices and contract marriage – and the Muslims, few in number, were sometimes citizens of the cities.¹

The conquest and famines that devastated North Africa in the ninth to twelfth centuries, as well as the ravages of the Hilallans, contributed toward a mass migration to Sicily, which continued under the Norman regime: Arabs and Berbers from Cyrenaica, Tripolitania, the Zab region, Ifriqiya, and the central Maghreb; Christians from Carthage, Mahdia, and El Gharbia; and

Jews from throughout the Maghreb and even from the Draa region and Tafilalet. A final wave of Jews, fleeing the late-arriving persecution of the Almohad al-Mansur in Marrakesh in 1231, were welcomed to Sicily in 1239. Emperor Frederick II settled them in Palermo.²

The family names of the Jews of Sicily, fixed in the fourteenth century, allude to the origins of their ancestors and make it possible to draw an imperfect map of these migrations: Sijilmassa, the Draa, Tahert, M’sila, Tébessa, Mahdia, Sfax, Gafsa, Tripoli, Sirte, and Barqa, a string of strong communities connected to Sicily by commerce from the eleventh century on. These migrations did not end in the thirteenth century. Maghrebi Jews continued to settle in Sicily, where they retained the status of privileged immigrants.³ The Jewish community of Trapani earned the privilege of welcoming migrants in 1474, and in 1491 Ferdinand, the Catholic king of Aragon and Sicily, granted safe-conduct to seventy Maghrebi Jews who came to settle there.

Familiarity with the language linked the Jews of Sicily to the Maghreb and thus allowed them to act as go-betweens, a role they shared with the Maltese and the Christians of Pantelleria, who were also Arabophones. They served as translators for notaries or in legal courts, or as brokers in commerce between Sicily and Tunisia. They possessed Arabic books in medicine and astronomy. In the late thirteenth century, King Charles of Anjou called upon Ferragut of Agrigento to translate al-Razi’s medical manual, *Al-Hawi*, from Arabic into Latin. In 1403 Martin the Younger, king of Sicily, even chose Samuel Sala, a merchant active in Trapani, as an ambassador to conduct delicate negotiations with the Hafsids on the question of redeeming each other’s captives, which involved a few bribes. The Sicilian Jews’ linguistic abilities, the support provided by the network of Jewish