

The Arabic legal documents of Toledo: the merging of legal cultures in a society in transition

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Abstract: The Arabic documents from Toledo mirror a mosaic of laws and legal customs, together with the merging of laws and legal systems. Indeed, Christians, Muslims, and Jews of Toledo continued writing their legal documents in Arabic, following the pattern of Islamic administrative handbooks, for a period of more than two centuries subsequent to the Christian conquest of Toledo in 1085. By analysing three documents from the Toledo collection, two contracts of marriage and a testament while comparing them to the Islamic ones, the merging of two legal systems and cultures, the Visigothic and the Islamic one is demonstrated. The Toledo collection witnesses the continuity—but also discontinuity—of the notarial and legal Islamic culture. Castile legal system incorporated the Islamic structure and formulas of legal documents—even religious formulas such as Qur’anic quotations—, as well as legal customs or “laws” and notarial procedures within the framework of the Christian-Castilian law. At times, the formulas appear as Christian adaptations of Islamic ones, such as naming canon law “the Catholic Sharī’a,” al-Sharī’a al-Qathūliyya. Toledo documents show a unique blending of legal cultures, demonstrating the close interaction of a European legal tradition with the Arabic-Islamic one. But, perhaps, the most striking aspect is that the Toledo documents portray the prominent role of women in the social and economic life of Toledo and challenge traditional perceptions of women’s roles in medieval societies.

Keywords: Christian Arabic legal documents; Islamic and Visigothic law; Toledo; marriage contracts; testaments; women in the Middle Ages.

Los documentos árabes de Toledo: la convergencia de tradiciones legales en una sociedad en transición

Resumen: Los documentos árabes de Toledo (1083-1391) reflejan un mosaico de leyes y costumbres legales, además de la continuidad de la cultura legal islámica bajo el dominio cristiano. En este sentido, es posible hablar de la fusión y el “mestizaje” de leyes y sistemas legales. De hecho, cristianos, musulmanes y judíos de Toledo continuaron redactando sus documentos legales en árabe, siguiendo el patrón de los manuales administrativos islámicos, durante un período de más de dos siglos posteriores a la conquista cristiana de Toledo en 1085. Al analizar tres documentos de la colección de documentos árabes de Toledo, dos contratos de matrimonio y un testamento, y compararlos con los islámicos, mostramos ejemplos de la conjunción de dos sistemas legales, el visigodo y el islámico que atestiguan la continuidad —pero también la discontinuidad— de la cultura notarial islámica. Se incorporaron, dentro del marco del derecho cristiano-castellano, la estructura y las fórmulas islámicas de los documentos árabes —incluidas fórmulas religiosas y citas coránicas—, así como costumbres legales y procedimientos notariales. En ocasiones, las fórmulas aparecen como adaptaciones cristianas de las islámicas, llamándose al derecho canónico “la Sharī’a católica”, al-Sharī’a al-Kathūliyya. Los documentos de Toledo muestran una fusión única de culturas legales, evidenciando así la estrecha interacción de una tradición legal europea con la árabe-islámica. Pero, quizás, el aspecto más sorprendente es que estos documentos subrayan el protagonismo que las mujeres desempeñaron en la vida social y económica de Toledo, desafiando las percepciones tradicionales del papel de la mujer en la sociedad medieval.

Palabras clave: documentación jurídica cristiano-musulmana; derecho islámico y visigótico; Toledo; contratos de matrimonio; testamentos; mujeres en la Edad Media.

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The legal rules and procedures which were applied in the various legal orders of the West in the period prior to the late eleventh and early twelfth centuries were largely undifferentiated from social custom and from political and religious institutions (...) Very little of the law was in writing (...) Law was not consciously systematized (Berman 1983, 50).

INTRODUCTION

Modern nation-states are characterized by the uniformity of their legal systems and laws. The codification of positive laws and the establishment of a unified legal system attached to the state represent modern developments. Contrarily, the legal systems of the Medieval period were most frequently characterized by a mosaic of laws and sources of laws, encompassing customary laws, religious laws, and secular laws, all coexisting within a hierarchical structure and applied within the same territorial boundaries. In Medieval Toledo, both the Church and the State held responsibility for administering justice. Simultaneously, Muslims and Jews maintained their own separate courts to govern internal matters pertaining to their respective communities.

In fact, laws and legal systems were intricately interwoven, giving rise to a fusion of legal practices officially under the label of Christian, Jewish, or Islamic law. In this regard, one can aptly speak of the merging or “mestizaje” of laws and legal systems in the Iberian Peninsula and specifically in Toledo under Christian rule.

The legal documents from the Toledo Cathedral mirror this mosaic of laws and the continued presence of Islamic legal culture under Christian rule. Remarkably, Christians, Muslims, and Jews of Toledo continued writing their legal documents in Arabic for a period of more than two centuries subsequent to the Christian conquest of Toledo in 1085. Throughout this extensive period, legal documents followed the pattern and formulas of Muslim administrative handbooks, such as Ibn al-Muġīth’s (d. 459/1067), *al-Muqni’ fī ‘ilm al-shurūt*¹ and Ibn al-‘Aṭṭār’s (d. 399/1009), *Kitāb al-wathā’iq wa-l-sidjillāt*.²

Most legal documents from Toledo have been preserved at the Cathedral of Toledo, and a lesser number at the monastery of St. Clement and other institutions.³ The Toledo collection, presently at Archivo Histórico Nacional de Madrid, has been partially edited by A. González Palencia,⁴ and comprises a significant corpus of 1,175 documents dating from 1083 to 1391, the bulk of them being contracts of sales. Nonetheless, I. Ferrando has surpassed this work by discovering new documents in the Archives of the Cathedral.⁵ The exceptionality of this collection is its unparalleled status as the sole existing compilation worldwide of Arabic legal documents written by Christians living under Christian rule.⁶ Although Muslim notaries residing in Aragon and

Sicily during the same period composed Arabic documents under Christian rule, the Toledo documents were exclusively authored by Christian notaries, with the involvement of Christian parties in most cases. Hence, Toledo collection represents a corpus of Arabic documents written by Christians and for Christians.

Following the Christian conquest of Toledo, it is noteworthy, the cathedral and monasteries took over the role of Archives, primarily due to the prevalence of transactions involving officials and clerics affiliated with these institutions, but also because the cathedral and monasteries provided the scribes who notarised and notaries were obliged to keep the original of every document they notarised.⁷ Indeed, the cathedral served as an intellectual hub that nurtured the written culture and the scribes, many of whom were affiliated with the Mozarabic clergy, were closely associated with the cathedral, and performed notarial functions. Nevertheless, the collection of documents from Toledo also mentions lay notaries who were remunerated by the testators for their services in drafting wills.⁸

Concerning the materiality of the documents, parchment serves as the primary writing medium for most of the collection, although it also includes some of the earliest extant on paper in Christian Spain and the Western world, only preceded by the *Breviarium goticum sive mozarabicum* of Silos.⁹ Indeed, paper did not gain extensive usage in the West until the thirteenth century, long after its adoption in the Islamic world.¹⁰

The documents have a rectangular format, except for the first one, dated 1083, on a roll format, which it reveals a change in the way of archiving documents after the Christian conquest (1085). They are dated according to the Hispanic Era, *Ṣufr*,¹¹ and use the Byzantine method of describing boundaries, starting by the East, instead of South as it is the case in Islamic documents.¹²

Even though the focus of this article is not the historical or socio-economic study of the Arabic documents, it must be pointed out that the Toledo collection offers a unique and accurate depiction of the process of the societal, economic, and political transformations that took place in Toledo. It illustrates the processes of conversion and assimilation experienced by Muslims and Jews from the eleventh to the fourteenth century, the pivotal role of women in economic and social life, the role of the Cathedral and Church officials as well as the gradual replacement of the Arabic and Latin languages with Spanish in Toledo.

The composition of Arabic documents came to an end by the mid-fourteenth century. Jews were the last group

of medievalists as well as from that of experts on Arabic and Islamic studies. An interdisciplinary research should be undertaken.

⁷ *Opúsculos legales* 1836, 2: 21.

⁸ González Palencia 1930, 3: 380-384, 386-387. Doc.1014, notary, Sulaymān. Doc.1016, notary, Petrus b. al-Qallās.

⁹ González Palencia 1930, 1: 57-58, 62; 2: 69; 3: 515. P.Mozarab.80, 1166; P.Mozarab.87, 1168; P.Mozarab.1096, 1167; P.Mozarab.467, 1222.

¹⁰ Schatzmiller 2018; González Palencia 1930, 4: 44. Even if the paper was known in the Islamic world since the 8th century, the widespread use of it began in the 10th-11th centuries.

¹¹ Fischer 1918, 263.

¹² Metcalfe 2012.

¹ Ed. Aguirre Sádaba 1994.

² Ed. Chalmeta; Corriente 1983.

³ I refer to the whole collection as the Toledo collection. Most of the documents are today at Archivo Nacional de Madrid.

⁴ González Palencia 1930, vols.1-4.

⁵ Ferrando Frutos 1999, 2007a, 2007b.

⁶ The collection has not been sufficiently studied because it presents the difficulty that it should be approached from the perspective

to relinquish the use of written Arabic in Toledo, being the last document of the collection a Judeo-Arabic one dated 1391, the notorious year of the pogrom. The gradual disappearance of Arabic in Toledo is evidenced by the need for a translation of a document in 1607, entrusted to Miguel de Luna, a Morisco from Granada and official translator at the Council of Castilla, indicating that the people of Toledo were no longer proficient in written Arabic.¹³

1. CONTINUITY AND DISCONTINUITY OF LEGAL CULTURE

Following the Christian conquest of Toledo in 1085, continuity was observed in society, institutions, and the legal system, albeit with certain modifications.

Throughout the twelfth to fourteenth centuries, there was neither fear nor rejection in Toledo with regard the Arabic language or culture. Important offices and titles still bore Arabic designations: the leader of the community was referred to as “*al-qā'id*” or “*al-wazīr*,” and the King held the title of “*Sultān*.” Priests were called “*imām*,” and the archbishop, as the head of the imams, was known as “*ra's al- Imāma*,” head of the imams.¹⁴ Moreover, even key institutional structures retained names that connected them to the preceding era. The Cathedral, for instance, was referred to as the “Main Mosque of the People of Toledo” or “*al-Ġāmi' Ahl Ṭulayṭula*” as late as 1157, nearly a century after its conversion and consecration as a Christian church.¹⁵

Indeed, names and institutions, although transformed, persisted among a newly re-Christianized Neo-Mozarab majority that had converted from Islam in large numbers when pledging allegiance to the Christian King Alfonso VI,¹⁶ after part of the elite had abandoned the city.

One notable aspect of cultural continuity from the twelfth to the fourteenth centuries is the legal continuity observed in the Toledo documents. These documents serve as replicas of Islamic templates, incorporating Islamic legal formulas, including religious expressions, and adhering to Islamic legal procedures. Indeed, the employment of these Islamic formulas demonstrates the adherence to identical legal procedures found within the Islamic legal system. This is evident in the requirements for attaining legal capacity as a witness or legal actor and the process of notarizing a transaction or a marriage contract that remained consistent with the practices of the Islamic legal system: Prior to the formalization of a legal action or transaction in the form of a written deed, the involved parties were summoned to give testimony before witnesses who were acquainted with the individuals, and who testified to their accounts. Subsequently, the document was written down and witnesses appended their signatures to the document.

The Toledo documents serve as evidence of the merging of Islamic legal tradition and the Visigothic and Castilian ones. Similar instances of legal culture transfer and assimilation have been observed in history. For instance, Grohmann demonstrated how Arabic notaries borrowed from Greco-Egyptian legal documents during the time of the Egyptian conquest, and Persian legal culture also permeated

Arab legal culture under the Abbasid dynasty.¹⁷ In the case of Toledo, the adoption of Islamic documents can be attributed to the fact that the majority of the population in Toledo was Arabic-speaking, and Arabic served as their written language. It may also be an indicator of the absence of a highly precise technical legal language in Latin or Castilian, specifically in the field of notarized deeds.¹⁸ In the concrete legal and historical context of Toledo, the continuation of a highly developed notarial culture was a logical course of action. From the historical perspective, Garcia-Velasco points out the use of these documents to ensure land property after the conquest, as “*tools for (Christian) hegemony...protecting the patrimony of the religious institutions that preserved them*.”¹⁹

However, the blend of Islamic and Castilian legal systems in Toledo not only entailed legal continuity but also encompassed a rupture. For instance, while Islamic practices regarding the procedures for notarizing a legal deed persisted, the allowance for women to act as witnesses and not be represented by a man in transactions or in court deviated from Islamic norms.²⁰

The promulgation of *Liber Iudiciorum*, also called *Fuero Juzgo*, demonstrated the rupture. The *Fuero Juzgo*, possibly had been enacted and existed prior to the Christian conquest, as evidenced by preserved copies dating back to the tenth century.²¹ Nonetheless, the *Fuero Juzgo* was sanctioned in Toledo in 1101, as Castilian law, while recognizing the law of the Mozarabs and the right of preserving their status quo. Initially, however, the Mozarabs were identified according to their legal status and legal customs, a kind of “protected subjects”, *dhimmis*, and not as a group with equal rights, even if sharing the same religious affiliation.²² Nonetheless, the Fuero of Alfonso VII of 1118 was expressly addressed “*ad omnes cives Toledanos, Castellanos, Mozarabes atque Francos*,” unifying all Christians living in the city under one “law.”²³

On the other hand, the *Fuero Juzgo* established a hierarchical structure of courts under the Castilian courts.²⁴ According to the *Fuero Juzgo*, Christian courts held jurisdiction over all lawsuits involving Christians and all cases pertaining to criminal law. However, with regard to civil law, procedural laws, and even some aspects of marriage law, the Fueros served as a framework within which customary law held its place, similar to the role of custom within the Māliki legal system. In both legal systems, it was possible to incorporate customary law, if it did not contradict religious precepts.

Christian documents from Toledo introduced to a certain extent a discontinuity by upholding the “Christian law,” “*Sunnat al-Naṣārā*.” Nonetheless, the term “*Sunna*” referred

¹³ P.Mozarab.250 dated 1195.

¹⁴ P.Mozarab.966 dated 1121; González Palencia 1930, 3: 301.

¹⁵ P.Mozarab.1036 dated 1157; González Palencia 1930, 3: 339.

¹⁶ Vallvé Bermejo 1999, 265.

¹⁷ Grohmann 1934-1962, 1: 143, 152-153; Reinfand 2020.

¹⁸ González Palencia 1930, 361.

¹⁹ García Velasco 2023, 228, 238.

²⁰ *Fuero Juzgo* 2015, 37.

²¹ Díaz y Díaz 1976.

²² Olstein 2011, 164; Maser 2011, 15.

²³ González Palencia 1930, 4: 121.

²⁴ Fuero of 1118 includes among its clauses: Anyone who murders a Christian, Muslim or Jew will be judged according to the *Fuero Juzgo*. In a trial against a Christian, members of minorities must appear before the Christian judge. Camino y Velasco 1740, 38-39; González Palencia 1930: 4: 122.

to a legal tradition rooted in legal custom, bearing similarities to the concept of Spanish *fueros*. *Fueros* were not merely laws issued by the king, but primarily the preservation of customs and legal practices of the people residing within a specific territory. It is difficult to succinctly define the term *fuero*, as its various meanings have evolved across time and place. *Fueros* encompassed various types of laws, including royal decrees and canon laws, but also privileges granted to towns or communities to safeguard their customary laws. Thus, *Fueros* were a framework where customary law had its place. Alfonso X's *Siete Partidas*, defines custom and "law" as follows:²⁵

From usage springs prescription, and from prescription custom, and from custom *fueros*, which are those oral practices or legal customs that remain over time. Legal customs are "non-written *fueros*" that remain over time and in this way, usage and legal custom become "law."²⁶

The concepts of *Sunna* and *Fueros* share an element of orality and custom, which facilitated the transmission and preservation of shared legal customs rooted in customary law and embedded within the daily life of diverse communities, transcending religious boundaries. As a result, the terms *Fuero* and *Sunna* were often used interchangeably,²⁷ contributing to the fluid interchange of legal practices to the integration of diverse legal traditions.

2. THE MERGING OF ISLAMIC LEGAL CULTURE WITH THE CASTILIAN LEGAL SYSTEM

Ana Echevarría highlights the parallels, though not complete equivalency, between the situation of Muslims living under Christian rule and the *Dhimma* status of non-Muslim fellows—"the protected people"—under Islamic rule.²⁸ The status of non-Muslims according to Islamic law afforded them the preservation of their lives, property, and the right to practice their religion—albeit with certain restrictions—in exchange for paying taxes and acknowledging the authority of the Christian king. The legal status of "*Dhimma*," had originated from the Byzantine legal system, which granted a status of "second class citizenship" to non-Christian subjects, since religion had assumed the role of "citizenship."²⁹ In the Byzantine Empire the citizenship per *iuris* of the Romans was replaced for the one based on religion.³⁰ This legal concept was "inherited" by the Islamic Empire, thereby the non-Muslims obtained a "second-class" citizenship under Islamic rule. Individuals belonging to religions other than the state religion did not possess full rights as "citizens" within the state and formed a distinct "nation" within the "nation." This role of religion serving

as a form of "citizenship" can be observed throughout the Byzantine,³¹ and Medieval periods.

In this legal context, the King of Castile established direct relationships between himself - or his close associates - and the Jewish and Muslim subjects of his realm. Thus, the leaders of these communities directly communicated with the ruler, who "protected" them, based on their legal status of "*Dhimma*," against paying an annual tax similar to the *jizya*.³²

But, in Castile, unlike the Islamic *Dhimma* status, there was not a unique legislation governing their non-Christian subjects and Muslim communities (*aljamas*).³³ Instead, the kings employed a discretionary approach, entering into distinct agreements with different groups among the Muslim population. This discretionary governance based on temporal legislations distinguished it from the Islamic *Dhimma* status, but at the same time, it reflected to what extend Islamic law was present and known.

According to Arab historiographer Ibn Kardabush, Muslims in Castile essentially lived under the *Dhimma* status.³⁴ Similar to the principles outlined in the *Dhimma* pact, the treatment of the conquered population depended on the nature of the conquest. If conquest by force, the population was taken captive; if through a pact, they remained free men under the *Dhimma* conditions prescribed by Islamic law.³⁵ But freedom of religion was guaranteed by the *Fueros* of Toledo, - applied as well in Cordoba and Seville - as granted in the *Dhimma* pact.³⁶ Thus, main mosques in these cities remained as such, albeit for a limited period of one year before being converted into cathedrals. Nevertheless, other mosques functioned and the muezzin's call to prayer continued until 1311, when it was prohibited by the Council of Vienne.³⁷

In terms of property rights, Castilian law mirrored Islamic law, disallowing inheritance between religions. Muslim property could not be inherited by Christians and viceversa; family members who did not share the religion of the deceased were excluded from inheritance. But the property of a Muslim without descendants would be inherited by their Christian lord.

Probably, both Jews and Muslims shared similar conditions of *Dhimma*:³⁸ Similar to Islamic law, marrying a Christian woman or man—the latter is specific to Christian law—was prohibited, as well as having Christian servants or engaging in proselytism among Christians. Identically as in Islamic law, the Fourth Lateran Council in 1215 issued regulations that prohibited the construction of new synagogues (and possibly mosques), allowing only the renovation of existing structures. The Council also mandated distinct signs on the clothing of Jews, similar to the dress regulations outlined in the Pact of 'Umar.³⁹

³¹ Cicero defined citizenship as "*Civitate Romanus habuit alterm loci patriam, alteram iuris*". Cicero 1979, 2: 2.

³² On Palmsunday. García-Velasco 2017, 240.

³³ Echevarría 2021, 58.

³⁴ Molenat 1997, 27-41.

³⁵ Echevarría 2021, 24, 50, 54.

³⁶ Echevarría 2021, 60.

³⁷ Echevarría 2021, 62.

³⁸ Similar to Umayyad Pact. Khoury 1994, 87-79.

³⁹ Fernández Conde 1979, 520, 524. Nonetheless, it seems this rule did not apply in Toledo, as Archbishop Rodrigo Jiménez de Rada prevented it.

²⁵ Las Siete Partidas 2011: 1. Partida 1:10-11.

²⁶ Las Siete Partidas 2011: 1. Partida 1: 10-11; Strong 1893, 318.

²⁷ García-Velasco 2017, 255.

²⁸ Echevarría 2021, 24, 43-58, 70-73.

²⁹ Hoyland 2015, 197-198. Some features of the *Dhimma* status were taken from the Persian legal system, according to R. Hoyland, such as the regulations of dress and haircut, expressing a social status.

³⁰ Cicero defined citizenship as "*Civitate Romanus habuit alterm loci patriam, alteram iuris*". Cicero 1979, 2: 2.

3. WOMEN'S "REVOLUTION": MERGING AND DIVERGING OF LEGAL CULTURES.

The Toledo documents provide valuable insights into the participation and legal agency of women in medieval society, particularly in the realm of economic transactions. Women are prominently featured in the documents, engaging in various legal activities such as buying, selling, donating, bequeathing, and executing testaments.

While women are always mentioned alongside their husbands in transactions due to the regime of shared property, they also acted independently as legal persons and served as witnesses.⁴⁰ The inclusion of women as witnesses is significant, since it had not been previously allowed by Islamic law.

There are, however, exceptions to the direct participation of women in legal transactions. For instance, in the case of Dominiq b. 'Abd al-'Azīz, who purchased a property for his sister Doña, widow of 'Ali the Smith, al-Haddād.⁴¹ This case documents the legal representation, *wakāla*, of a woman by a male relative, showing the retention of pre-existing Islamic legal customs by a family of new converts who chose to continue representing women in their transactions.⁴²

Castilian law allowed women to appear in court for their own affairs although it did not allow that she represented others. And probably respecting the legal custom of Muslims, Castilian law introduced a provision allowing husbands or close relatives to represent women in court.⁴³

This inclusion of legal representation reflects the accommodation of diverse legal systems and traditions within the evolving legal framework of Toledo.

Overall, the Toledo documents provide compelling evidence of the active role played by women, such as direct buyers and sellers of property, independent executors of testaments, and witnesses in legal contracts. They served as executors of testaments, even in cases where male relatives were present.⁴⁴ In other documents the executor is the mother of the testator or the Abbess of a convent.⁴⁵ These examples demonstrate that women held positions of responsibility and had the legal capacity to act as executors. The documents also reveal the active and educated nature of women in medieval Toledo. Educated women are seen donating money to their teachers in their wills, indicating their intellectual engagement and financial independence.⁴⁶

Moreover, women serve as witnesses in contracts, actively participating in legal proceedings. For instance, in document 53 Maria *bint* Petri, the sister of the seller and buyer, acts as a witness. Document 73 features a witness

signing as "Sol Petri, *testis*" (Sol Petri, witness).⁴⁷ In another document, Dona Maria, the mother of the testator, signs as a witness in her dying daughter's testament,⁴⁸ further exemplifying the active presence of women in legal matters.

Many women mentioned in the documents are depicted as affluent individuals who inherited property, received donations, and owned their own assets. For example, a document features the dowry obligations in marriage, where the bridegroom is required to provide the maximum amount of dowry, a tithe of his entire property, which the bride has full disposition upon.⁴⁹ This dowry could include not only household items, *ash-shuwār* (ajuar), but also valuable possessions such as jewelry, land, slaves. Additionally, another contract of marriage⁵⁰ depicts a case where the bride brings more property and value into the marriage than the bridegroom.

The Toledo documents, through their portrayal of women as active legal actors, challenge traditional perceptions of women's roles in medieval legal systems and shed light on the diverse legal roles and agency of women in medieval Castilian society.

4. THE "MESTIZAJE" OF LEGAL CULTURES: TWO CONTRACTS OF MARRIAGE

The Mozarabic Era, as Olstein named the period from the twelfth- to thirteenth centuries, mirrors the "mestizaje" or merging of cultures. An example of this cultural and legal "mestizaje" is documented by the only two marriage contracts from the Toledo collection, in which Visigothic, Castilian, and Islamic "law" merge together.

4.1. An Arabic contract of marriage: P.Mozarab.1010 dated 1185⁵¹

4.1.1. Islamic introductory formula and Roman-Byzantine rituals

The marriage contract between Domingo Petrez⁵² and Doña Justa, dated 1185, begins by incorporating Islamic phrasing and summoning the bridegroom for testimony, as is customary in Islamic law while introducing Roman-Byzantine customs: "Rejoicing proposal of marriage, this is a marriage contract and commitment. It has been ordained to draft the contract and summon Dūn Duminqu Bītris to give testimony regarding all pertinent matters."

The adoption of Roman-Byzantine customs by the Castilians is evident through the inclusion of the wedding

⁴⁰ *Fuero Juzgo* 2015, 37.

⁴¹ González Palencia 1930, 1: 9. P.Mozarab.12.

⁴² Documents from the 13th. century Huesca, Aragon, portrait women as legal actors but represented by their husbands. Bosch Vila 1957.

⁴³ *Opúsculos legales* 1836, 2:24-25. The *wakīl* or legal representatives are called *Personeros* in Castilian law.

⁴⁴ González Palencia 1930, 3: 393-394. P.Mozarab.1021, dated 1195.

⁴⁵ González Palencia 1930, 3: 399-404. P.Mozarab.1024, dated 1211; P.Mozarab.1025, dated 1212.

⁴⁶ González Palencia 1930, 3: 386, 393. P.Mozarab.1016, 1020, 1021, 1022.

⁴⁷ González Palencia 1930, 1: 36, 51. P.Mozarab.53, dated 1157; P.Mozarab.73, dated 1164.

⁴⁸ González Palencia 1930, 3: 386, 393. P.Mozarab.1016, 1020, 1021, 1022.

⁴⁹ Car.3040 N.7. Archivo Histórico Nacional de Madrid. González Palencia 1930, 3: 371-372; P.Mozarab.1010, dated 1185.

⁵⁰ Car.3065, N.13. Found at Archivo Municipal of Toledo, today at Archivo Histórico Nacional. P.Mozarab.1175, dated 1285. González Palencia 1930, 4: 387-394.

⁵¹ Car.3040 N.7. Archivo Histórico Nacional de Madrid. González Palencia 1930, 3: 371-372; P.Mozarab.1010, dated 1185.

⁵² This name appears in P.Mozarab.191, dated 1187, as a member of the *Criazon* del Sultan. But the name is very common. González Palencia 1930, 1: 143.

rings, something completely unknown to the Medieval Islamic world, along with the *arras* – or token of bridal dowry-, out of silver or gold coins. The *arras* symbolizes today the commitment of both parties to share all aspects of life, including material goods. However, in Islamic law and in this document, the *arras* are a pre-payment of the dowry.

4.1.2. Specific provisions of Visigothic and Castilian law in P.Mozarab.1010

Visigothic law, unlike Islamic law, permits a mother to represent her daughter in marriage if the father is deceased.⁵³ Both Visigothic law and Māliki law require the father's consent for a daughter's marriage. However, *Fuero Juzgo* allows the mother to provide consent and sign the contract in the event of the father's death. In Islamic law, contrarily, if the father is deceased, a male guardian, *walī*, such as the grandfather or brother, assumes this role, excluding female family members.⁵⁴

Both Castilian laws, like Islamic law, present marriage as an agreement between families, necessitating witnesses and a public dimension, with additional contractual arrangements concerning dowry and property. The deed of dowry has a long tradition in Islamic law, and its highly regarded use in Castilian law seems to be of Islamic origin, as indicated by the phrase: "The wedding has dignity when preceded by the dowry deeds, *munus dotalium scripturarum*."⁵⁵

But a wedding is also possible without a deed—according to both "laws"—:

Provided that there has been an agreement before witnesses, between those to be married or between their parents or between close relatives and—in the case of Visigothic law—the so-called arras ring, *anullus arrarum*, has been given and accepted, even if there is no written deed, *scripture*. This commitment, *promissio*, which is accompanied by the delivery of the ring and the fixing of commitments before witnesses should not be violated.

The provision of a dowry is required by both Islamic law and Visigothic law as well.⁵⁶ The dowry is a warranty in case of the husband's death or the couple's separation according to Islamic law. While Islamic law regulates the minimum amount of dowry—a quarter of a dinar⁵⁷—and beyond that only what it is customary and whatever it is agreed between the families, Visigothic law regulates it, capping it at a tithe of all possessions owned by the bridegroom, this being the maximum allowed.⁵⁸

Different from Islamic law, Visigothic law grants not only the father but also the mother the right to take possession

of the dowry on behalf of the bride. If both parents are deceased, the brothers or close relatives assume this role, ensuring the sister receives the full dowry. "The father has the right, *potestatem*, to demand the dowry that has been awarded to the girl and to keep it for her." "If the father and mother died, then the brothers or close relatives will give the sister in full the dowry, *arras*, they have received."⁵⁹

Finally, Castilian law differs from Islamic law by mandating that all wealth acquired during the marriage is shared equally between both spouses: "All gained properties by the couple, starting from the time of their marriage, belong to both equally, with each entitled justly to half of the property."⁶⁰

4.1.3. Specific provisions of Islamic law in P.Mozarab.1010

Similar to the Islamic formulas of a marriage contract the bride is described as a virgin who has reached sexual maturity and is under the guardianship, in this case, of her mother – as permitted by Visigothic law in the event of the father's decease.⁶¹ Likewise, the bride is represented at the moment of marriage by her guardian, *walī*, who is in charge of all legal matters concerning the contract. The contract would be signed by the bridegroom and the bride's guardian, *walī*, in this case, the mother – and not the father for the reasons mentioned before.

Moreover, a wider range of Islamic formulas and vocabulary pertaining to marriage contracts are employed, such as: "by means of this marriage contract, she would become a legal wife, (*zawja sunniya*), and a satisfactory companion for her future husband, (*ṣāhibā marḍiyā*). The word legal is conveyed by using the Islamic term *sunniya*, from Sunna. The second formula is used in Islamic contracts of marriage to convey the ethical dimension of marriage that of being a companion to each other, as mentioned in Koran (16,72): "And Allah has made for you mates (and companions) of your own nature."

Islamic law is very clear concerning the dowry, the provision of a dowry is a *condition sine qua non*: No wedding without a dowry.⁶² Islamic law regulates the formal act of giving a dowry, *mahr*, and a gift, *hidāya*,⁶³ to the bride as well as the timing for presenting them. The *non-delayed* dowry must be given by the time of consummation of the marriage. P.Mozarab.1010 states:

The condition to make this contract valid is that Dūn Duminquh Bītris⁶⁴ is obliged to give the bride, at the moment of marriage a dowry, *mahr*, of one tenth of all his possessions, mobile property and estate. [...] He should pay her as well at

⁵³ *Fuero Juzgo* 2015, 48-49. In the same way as in Islamic law, a widow does not need the consent of the father or brothers to get marriage, she can get marriage without a *walī*. See *Opúsculos legales* 1836, 2, 65.

⁵⁴ Grandfather represented the bride. P.Cair.Arab.38: Marriage contract, Egypt, year 873. Grohmann 1934-1962, 1: 68-73. Brother represented the bride because her father had died. P.Mozarab.13, Contrato de boda. Barcelo y Labarta 2009, 156-161.

⁵⁵ *Fuero Juzgo* 2015, 61.

⁵⁶ *Las Siete Partidas* 2011, 2. Partida 4/1, 3.

⁵⁷ *Al-Muwatta'* 2019, 477.

⁵⁸ *Fuero Juzgo* 2015, 48.

⁵⁹ *Fuero Juzgo* 2015, 48, 60-65.

⁶⁰ *Opúsculos legales* 1836: 2: 69, 70. In Islamic law, each partner retains the own properties, while men have the obligation to provide for the family.

⁶¹ P.Cair.Arab.41: Marriage contract Egypt, dated 892. Grohmann 1934-1962, 85-91.

⁶² *Al-Muwatta'* 2019, 475.

⁶³ *Al-Muwatta'* 2019, 476.

⁶⁴ In González Palencia 1930,59: Doc.456 mentions in year 1220 Domingo Petrez b. Farhūn and Doña Justa. They may be the same persons; this time they buy a vineyard. But the name Domingo Petrez is mentioned more than 30 times in the collection, since it is a name meant for converts, sometimes as the second Christian name.

the moment of consummation of marriage a gift, which would consist of earrings, bedcover, cloak, a veil, shoes and stockings.

In Islamic law as well as in Castilian law, *delayed* dowries, and dowries in general serve as a form of financial security for women in the event of widowhood or divorce as well. The actual dowry, *mahr*, of the contract may correspond to a delayed dowry of Islamic law in fact. The delayed dowry must be paid off in case of death of the husband, in the form of inheritance or in case of cancellation of marriage.⁶⁵ However, it can be required by the woman anytime during marriage, according to Islamic law.

4.1.4. Account of other standard Islamic legal formulas in P.Mozarab.1010

The following formulas are standard formulas common to another type of documents such as contracts of sale and rendered in the literal form:

1. The legal formula that confirms the transfer of property is identical to those in Islamic documents: "She can dispose of all of this (property) as it corresponds to her as owner."
2. The Islamic formula ensuring no evasion of responsibility based on ignorance, which is normally located at the end of the contract, corresponds to the ones in Islamic contracts of sale and other Islamic deeds. This formula emphasizes that the contract is considered completed only "after the parties have been informed of all the stipulations they have agreed upon and the commitments they have made to each other."
3. The formulas used in the witness clauses are identical to those found in Islamic contracts.
4. The formula including the bride when giving testimony, alongside the bridegroom and guardian, *walī*, follows the wording and practice of Islamic legal deeds.⁶⁶
5. The plurality of languages and cultures in Toledo is reflected in the signatures of the witnesses in the document, some in Arabic, others in Latin (and in other documents, Hebrew). This diversity is indicated by the terms "*bi-l-ʿajamī*" (in non-Arabic languages) and "*bi-l-ʿarabī*" (in Arabic).

4.1.5. Catholic character of marriage in Document 1010

According to a catholic ceremony of marriage, a couple is considered to be married when they have received the blessing, *taqdīs*, and exchanged the rings and *arras*. This practice stems from Byzantine customs and this Christian ritual continue to be observed in Spain to this day. The passage in the document states: "The marriage couple is considered to be marriage (obliges itself) after the blessing of both, *taqdīs*, and having taken the ring from each other and the arras."

Furthermore, P.Mozarab.1010 indicates that marriage has been conducted according to canon law, called the Catholic *Sharīʿa*, *al-Sharīʿa al-Qathūliqiya*. This terminology reflects the influence of the Arabic-Islamic legal culture. Additionally, the contract is signed according to the Apostolic faith and religion.

A distinction seems to be made between Canon law, the Catholic *Sharīʿa*, *al-Sharīʿa al-Qathūliqiya*, and the law of the land, promulgated by the king, referred to as *Sunnat an-Naṣārā*. This differentiation indicates a certain separation of the religious and the secular in the field of law.

Last but not least, the Cathedral of Toledo served as an archive for the people of Toledo who intended to keep their legal actions and properties confirmed and registered, this register included records of marriage of noble families, as it is the case of this document.⁶⁷

4.2. A bilingual Contract of Marriage and a List of Property: Document 1175 dated 1285⁶⁸

Marriage agreements were not always recorded in writing, as marriage was primarily viewed as an agreement between families. However, the material aspects of marriage, such as dowry and property, required written documentation. The highly recommended deed of dowry in the *Fuero Juzgo*, likely has its origin in the greatly developed Islamic notarial tradition.

This bilingual Latin and Arabic marriage contract of significant dimensions, 562 × 537 cm, includes a Latin part and an extensive list of the bride's and groom's properties, written in Arabic.

The Latin part of the marriage contract begins: "This is a legal order approved by the customs (*moribus*) of the parties, since a marriage does not take place without a dowry."

It further includes a quotation from the Gospel, in the same position and akin to an Islamic contract referencing the Koran, emphasizing the religious significance of marriage: "For this reason, a man shall leave his father and mother, and join his wife, and the two shall be one flesh. The Apostle said: love your wives as Christ loves His Church" (Matthew 19:5-6).

The contract also adheres to the dowry requirements outlined in Visigothic law, with the groom obliged to pay a dowry before the day of marriage, "as dictated by the *Fuero* of the land, *patria*."⁶⁹ Interestingly, in this particular marriage, the bride brings more value into the union than the groom.

While the initial part of the contract, bearing a religious character is written in Latin, the list of properties brought by the bride and groom is written in Arabic, corresponding to an Islamic marriage deed or "deed of dowry," *ṣadāq*, and highlighting the role of Arabic in daily economic life.

The legal framework for the marriage follows Castilian and Church law, *Fueros*. The Arabic text translates the Latin term *Fueros* as "required by the Sunna" with the phrase

⁶⁷ The Cathedral kept the original and one copy of this document. The copy may have been meant for the parties.

⁶⁵ Las Siete Partidas 2011, 2. Partida 4, 31, 37; González Palencia 1930, 3: 380-384; P. Mozarab.1014.

⁶⁶ P.Mozarab.45: Grohmann 1934-1962, 1: 105.

⁶⁸ Car.3065, N.13. P.Mozarab.1175, dated 1285. González Palencia:1930, 4: 387-394. Before housed at Archivo Municipal of Toledo, today at Archivo Histórico Nacional.

⁶⁹ González Palencia 1930, 4: 387.

*“bi-mawğib al-Sunnat fī miṭli-hi.”*⁷⁰ The expression of *bi-miṭli-hi* in Islamic documents is a technical word meaning “according to the local custom.” However, the local custom includes the notion of the status of the couple, thereby determining the amount of the customary dowry.

The religious nature of marriage is referenced by mentioning “the day of our blessing”: *“die nostre benedictionis.”* Although the marriage contract does not explicitly mention the Catholic *Sharī’a*, as in the previous document, the quotation from the Gospel sufficiently conveys its Christian character. The absence of the term Catholic *“Sharī’a”* or *Sunnat al-Naṣārā* might suggest that the parties are new converts, although not necessarily. Other documents involving transactions among Jews and Christians use the expression *bi-mawğib al-Sunnat*, avoiding explicit mention of the laws of the Christians.⁷¹

Similarly to the Latin part of this document, Islamic contracts of marriage confer a religious character to the document by including quotations from the Koran and Sunna and by referencing the authority of both:

- “Under the condition that he fears God and respects her, and that he becomes a good companion and lives with her as it is morally approved, *bi-l-ma’arūf*, as God has commanded in His Book and the Sunna of His Prophet.”
- “Under the condition that he fears God and respects her, so that she enjoys in his house the same protection and safety, *amāna*, as God grants her and as the Sunna of the Prophet commands the spouses. They should be in good companionship with each other, regulating property and absences, as God established in His Book for the good of spouses.”⁷²

5. THE “MESTIZAJE” OF LEGAL CULTURES: A CHRISTIAN TESTAMENT WITH A KORAN QUOTATION AND A DONATION TO THE CRUSADES.

5.1. Typology of testaments and their relation to Islamic documents

A certain number of testaments of the Toledo collection follow the structure, formulas, and terminology of the testaments of the Islamic counterpart. Typologically speaking, three formal types of testaments are found in the Toledo collection: *hāḡā mā ’awsà*, *hāḡā kitāb*, *ṣahida fulān*.⁷³

The type studied here, *hāḡā mā ’awsà*, is the standard type and shares similar features with the other types. The opening formulas and technical terms of most testaments in the Toledo collection correspond to those of Islamic

testaments: “This is what this person (name and address) has bequeathed, *hāḡā mā ’awsà*.” After the identification of the testator by name and address, the testator entrusts the execution of his will to the chosen executors, encompassing both his immovable and movable possessions.

Remarkably, the testaments of the collection that begin with the phrase “*hāḡā mā ’awsà*” [this is what has been bequeathed], incorporate literally the Islamic religious formula or *memento mori* of Qura’ānic wording in the preamble of the will: “Being afraid of death, which is inevitable, and beyond the escape of any creature of God.” This formula appears in the same location in these documents as in Islamic testaments, just after the first lines, and the formula is found in most testaments within the Toledo collection.⁷⁴

However, the type “*hāḡā kitāb*” [this is a document of], which begins with a different opening and technical terms do not adhere as closely to the pattern of Islamic testaments and lack the inclusion of Islamic religious formulas as well. It is noteworthy that a testament attributed to a priest also omits this formula even if it belongs to the first type.⁷⁵

Furthermore, the formula of the testator’s legal capacity is identical in all testaments to the Islamic one: “He was physically ill, but stable in mind.” After the formula of legal capacity, a Christian confession of faith is included, confirming the belief in the Father, the Son, and the Holy Spirit, one God. This confession of faith replaces the Islamic one of Islamic documents: There is no God but only the one God, “*lā ilāha illā Allāh*.” Document number 1014 even adds “We believe in the Apostles and the Fathers.”

Moreover, this testament and others in the collection complete the confession of faith by including sentences with Qur’ānic wordings—not quotations—, seeking God’s forgiveness (Koran 24,2).

Remarkable is—as pointed out by Sanz Fuentes⁷⁶—that later Romance Castilian documents follow the structure, formulas, and terminology of the testaments of the Islamic counterpart. They use the Christian Basmala, Islamic religious formulas concerning death, the formula of legal capacity, confession of faith in Latin, asking God for forgiveness, and the order of allocations.

5.2. A Christian Testament with a Koran quotation and a donation to the Crusades

The document P.Mozarab.1033,⁷⁷ dated 1268, is the testament of Fernando Petrez, a resident in the parish of San Andres in Toledo. The main corpus of the document consists of instructions on how to distribute the money and property after the testator’s death. Each portion to be distributed is introduced by the verb “he ordered,” “*amara*.”⁷⁸ The introductory formula used in this section is literally an Islamic formula: “The first thing that he commanded was to conduct an inventory of all his possessions upon his

⁷⁰ González Palencia 1930, 4: 393.

⁷¹ González Palencia 1930, 3: 389-390. P.Mozarab 1019, dated 1185.

⁷² Chrest.Khoury II 1995, 8: lin.5-6. Uqlūl dated 1052. Moriscos kept the religious formulas and suras of the Koran. They added the prohibition of taking more than one wife by means of introducing a legal clause to the contract, which it is lawful and customary in Islamic law. Hoenerbach 1965: 145-146.

⁷³ See The Arabic Papyrology Database: <https://www.apd.gwi.uni-muenchen.de>

⁷⁴ Also, in later Castilian testaments. See O’Conner 2015: 149.

⁷⁵ González Palencia 1930, 3: 375, 390. P.Mozarab.1012, 1015, 1019.

⁷⁶ Sanz Fuentes 2014, 383-385.

⁷⁷ Car.3065, N.13. Archivo Histórico Nacional; González Palencia, 1930, 3: 429-430; P.Mozarab.103 dated 1268.

⁷⁸ Described as well in Castilian law: *Opúsculos legales* 1836, 1: 271.

demise." These possessions were to be used generously for the benefit of his soul and "for the path of God."

The expression *fī-sabīl Allāh*, can be understood "for the sake of God" or rather as *Jihād fī-sabīl Allāh*, holy war on the path of God. Indeed, he used the expression with the meaning of "holy war," since he donated five *mithqāl* for the Crusades. Since the papal bulls of the Crusades issued in 1219 CE, 1221 CE and 1222 CE,⁷⁹ donations for the Crusades became a preferred means to redeem sins.

For other donated amounts the same phrase *fī-sabīl Allāh* is used, however, they were given for different purposes than war. In these other cases, González Palencia translated the expression "for love of God", but I find a better translation "for the sake of God."

Regarding the allocation of money, the testators first of all allocated funds for their burial expenses, including the cost of the burial itself, the shroud, and the expenses related to visiting the grave on the seventh, the fiftieth day and after one year. Additionally, they made provisions for future masses, such as those to be held on the seventh and fiftieth day after their death and on the first anniversary.

Many testators in the collection also donate money for the construction of the Cathedral and other churches in Toledo. In this document, the testator contributes 10 *mithqāl* for the construction of the new Cathedral and another 10 *mithqāl* for his parish church, San Andrés. It is worth noting that the donation for both churches is double the amount given for the Crusades, which is 5 *mithqāl*.

Given the ongoing conflicts in the Iberian Peninsula, the rescue of Christian prisoners of war was a significant concern. Consequently, the testator designates 20 *mithqāl* for the rescue of Christian captives from Islamic territory, an amount twice as large as the donation for building the Cathedral and his own parish church. Generous donations for the rescue of captives were common in most wills.

However, the most substantial donation in this document is for the sake of the testator's own soul. The testator donates 200 *mithqāl* for masses to be offered to sanctify his soul. Additionally, he donates a vineyard to the priests of the Church of St. Andrés, with the condition that they, as imams of the church, celebrate the annual anniversaries of his death, an obligation resulting from this donation. Formularende

Finally, the testator allocated a portion of his or her estate to benefit family members, prioritizing those in need. Specifically, the testator gifted 20 *mithqāl* to his female cousin to support her marriage. The remaining assets were distributed among the testator's brothers, and sisters, males and females equally. Noteworthy contributions were also made to teachers by testators, both men and women, as an expression of gratitude.⁸⁰

After detailing the testator's will, the formula declaring the transfer of property is used: "They can dispose of all of this as it corresponds to the owner of a property." This formula is identical to the one in Islamic documents.

Concerning the executors of the testament, it is mentioned that they were chosen based on their virtues.

Indeed, two testaments of the collection,⁸¹ include a *literally quotation of a verse of the Koran* to complete the standard formula of trust. The Qur'ānic verse admonishes the executors of the will to fulfill their responsibilities: "for nothing is hidden from God".

The inclusion of a Qur'ānic quotation as a standard formula in Christian wills, quoted *verbatim* from the Koran, may suggest that the verse had become a standard formula in Christian documents at the time when Mozarab notaries were familiar with the Koran and had no fear of it. Later, Christian notaries may have simply overlooked the verse's Qur'ānic roots, because this Qur'ānic verse is an ecumenical one: "And let them do in this "as the ones who know that nothing on Earth nor in Heaven is hidden from Him" (*Surat al-Imrān*, 3, 5). Furthermore, the formula stating that no creature of God has the right to oppose the testator's will corresponds to the Islamic formula in Islamic testaments.

The legal framework of the testament is the Sunna. This document and others⁸² mention the formula "according to the Sunna," without specification whether is the Christian or Muslim law. Mozarabs were under the Fueros or Christian law, *Sunnat al-Naṣārā*, but in the case of new converts, this expression would be preferred. However, in this case seems to be a shortening of the legal formula.

The procedure of attesting the notarized document corresponds exactly to the procedure in the Islamic legal system. The parties are called upon to give testimony, which is then heard by witnesses who know them and can testify to the content of what they have heard from the parties. This oral proceeding and witness upon it, is a necessary condition before a document can be written down and signed by the (same) witnesses. The formulas used in the Christian document for this proceeding are the same as those found in Islamic documents.

6. CONCLUSION

"Legal rules prior to the late eleventh and early twelfth centuries were largely undifferentiated from social custom and from political and religious institutions (...) Very little of the law was in writing."⁸³ J. Luis Alonso similarly states: "Εἰς καὶ νομοὶ became in Hellenistic and Roman times a commonplace to refer to the law in its entirety, or, more often, to the whole social order. The Latin equivalent, *mores* et *leges*, was to describe the legal and social order in the city."⁸⁴

Thus, in ancient and medieval times, concrete "laws" were most frequently originated and embedded in customs, *mores*, approved by common consent and by the passing of time and later on by jurists.

Legal written culture—leading to modern positive law—began to gain traction, however, in the 11th-12th century and, particularly in the early 16th century with the advent of the Reformation and the printing press. Although the field of law had always been a pioneer of written culture, significant

⁷⁹ Echevarría 2014, 134.

⁸⁰ González Palencia 1930, 3: 380-398; P.Mozarab.1014, 1016, 1020, 1021, 1022.

⁸¹ The verse of the Koran, *surat al-Imrān* 3,5, is found in González Palencia 1930, 3: 380-384, 429-430. P.Mozarab.1014, 1033.

⁸² González Palencia 1930, 3: 389-390; P.Mozarab.1019, dated 1185.

⁸³ Berman 1983, 50.

⁸⁴ Alonso 2013, 366.

developments towards a greater written systematisation of law occurred in the late medieval time. By the eleventh century in the Islamic world, and by the twelfth century in medieval Europe, a turning point in the development of law and legal systems emerged, intertwined with the increasing role of written culture in society.

The earliest collection of Canon Law dates to the eleventh century, but it was not until 1140, with the *Decretum Gratianum*, that a systematic work of Canon Law was available.⁸⁵ Las Siete Partidas of Alfonso X (1252 CE–1284), a benchmark of Castilian legislation, was an attempt to fuse the new achievements in civil and canon law with customs, but it failed to replace existing laws and legal customs in Castilla. When in 1348 Alfonso XI promulgated it anew, it became only a supplementary source of law within a hierarchy of laws.⁸⁶

Thus, it is plausible that existing legal customs were incorporated into compilations or rewritten law books during the process of systematization. M.A. Alonso states that during the Middle Ages, Jews and Islamic law had influenced the law of Christian Spain.⁸⁷ Indeed, legal customs from the Muslim population and features of the Islamic legal system merged into the Castilian legal system or persisted as local legal customs and unwritten laws.

This article provides examples of it, demonstrating the convergence of Castilian and Islamic law. The examples include the unwritten *Dhimma* status of Muslims and Jews, the representation of women by husband or relatives in legal transactions and court, the practice of writing a legal deed of dowry, the custom of granting a gift, *hidāya*, to the bride before marriage, in addition to the dowry, and the procedure of notarizing a document. However, discontinuities existed as well, as evidenced by the possibility for women to become witnesses and represent themselves in court and legal transactions.

The legal features discussed above and the continuation of the Islamic notarial tradition demonstrate that the Toledo collection of Arabic documents witness both continuity and discontinuity of the Islamic legal culture in Castilla, producing a unique legal “mestizaje” of legal cultures.

In addition to that, the Toledo documents provide insight into a transitioning society, documenting property transfers between religious communities and their dwindling of number, providing the names of first-generation of converts within families, highlighting the cathedral’s role as an economic engine and the pivotal role of women in the city’s economy.

Although it is not the aim of this article to study the social transformations that took place, together with the role of women, because it requires a study per se, the most striking feature of the collection is the great number of women actives in the economy of the city. They appear selling and buying, with full legal capacity, independent of their husbands’ or parents’ involvement, and almost surpassing the number of men.

Toledo documents provide a unique glimpse into the active participation of women in the city’s economy and

legal matters, while challenging traditional perceptions of women’s roles in medieval societies.

To conclude, the study of the Toledo documents is crucial as it demonstrates the relevance of Islamic law in Christian Spain and the inter-action and convergence of legal cultures as shown by the study of two contracts of marriage and a testament. Simultaneously, the documents are a rich source of socio-economic history, depicting a society in transition led by the Church as an economic engine, women challenging the traditional perceptions of their role and the Jewish and Muslim communities undergoing transformation. Hence, the collection necessitates an interdisciplinary approach in order to assess the whole legal, socio-economic, and historical data.

DECLARATION OF COMPETING INTEREST

The author of this article declares that she has no financial, professional or personal conflicts of interest that could have inappropriately influenced this work.

AUTHORSHIP CONTRIBUTION STATEMENT

Rocío Daga Portillo: conceptualization, data curation, investigation, validation, writing – original draft, writing – review & editing.

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⁸⁵ Watkin 1999, 104.

⁸⁶ Strong 1893, 318; Watkin 1999, 104.

⁸⁷ Alonso 1978, 337-339; Daga Portillo 2023, 195-196.

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