TILL GOD INHERITS THE EARTH
THE MEDIEVAL AND EARLY MODERN IBERIAN WORLD

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Surely We shall inherit the earth and all that are upon it, and unto Us they shall be returned

Qur’ān, XIX, 40
Trans. A.J. Arberry

And Zachariah—when he called unto his Lord, ‘O my Lord, leave me not solitary; though Thou art the best of inheritors’

Qur’ān, XXI, 89
Trans. A.J. Arberry

It should be known that history is a discipline that has a great number of approaches. Its useful aspects are very many. Its goal is distinguished

Ibn Khaldūn, al-Muqaddima
Trans. F. Rosenthal
CONTENTS

Preface and Acknowledgements ................................................ ix
Glossary of Arabic Terms ........................................................ xi

Chapter 1 Sources used .................................................... 1
Chapter 2 The use of Islamic jurisprudence as a documentary source ........................................ 24
Chapter 3 Origins and early development of the institution .......................................................... 55
Chapter 4 The Legal Framework: general elements of donations ................................................ 82
Chapter 5 The family or private ḥābās ...................................... 142
Chapter 6 The aims of pious ḥābās .................................. 184
Chapter 7 The organisation of mosques and the role of pious endowments ................................. 243
Chapter 8 The officials responsible for managing the endowment: nāẓir, qādī and ṣāhib al-ḥābās ..... 293
Chapter 9 Legal Theory versus Practical Needs: causes and mechanisms to altering donations .......... 337
Chapter 10 Pious endowments in the context of the Andalusian Social Formation .......................... 392

Conclusion .................................................................................. 436

Appendix I Jurists and fuqahā': identification and alphabetical index ............................................ 448
Appendix II Inventory and breakdown of fatāwā included in the Mīyār ........................................ 457
Appendix III Tables of Data .................................................... 467
Appendix IV Location of Ibn Rushd’s fatāwā ........................................ 477
Appendix V Graphs ........................................................................ 479
Appendix VI Texts in Translation ................................................ 484

Sources ........................................................................................ 523
Bibliography ................................................................................ 527
Index .......................................................................................... 539
The present work is the English version of my book *Hasta que Dios herede la tierra. Los bienes habices en al-Andalus (siglos X–XV)*, published in 2002. I have a particular interest in making clear from the beginning that this work is not a mere translation of its Spanish predecessor. On this premise, three general remarks must be made. In the first place, I have made a special effort to include the most recent books and articles, published after 2002, in the field of Islamic pious endowments, and even others existing prior to that date which were neglected in the Spanish version for different reasons. On the other hand, even if it is true that the general structure and the body of the text are broadly the same, some relevant changes have been introduced in several parts of the book, with the aim of improving perspectives, presentation of subjects, formulation of ideas and even literary style. In the third place, the corpus of documentary sources has been slightly enlarged with new texts and translations, making it richer. For all these reasons, I consider this book a new version of the Spanish one and not a simple translation, even if my conclusions still remain the same.

The aforementioned work was the result of my Ph.D. entitled *Los bienes habices en al-Andalus, siglos X al XV. Estudio socio-económico de una institución islámica a través del análisis de las fuentes jurídicas*. (The Pious Endowments in al-Andalus, 4th–9th/10th–15th centuries. A social and economic study of an Islamic institution through the analysis of legal sources). That dissertation was carried out at the Department of Medieval History of the University of Seville and co-directed by Dr. M. González Jiménez and Dr. R. Valencia. It was publicly defended on Monday December 21st 1998 at the Faculty of Geography and History of the University of Seville. I wish to thank all members of the panel for their useful and accurate observations which have helped me to improve several aspects of the contents of this work.

I would also like to express my sincere gratitude to other colleagues who had the kindness to provide me with their invaluable assistance. I would like to single out Dr. P. Chalmeta who offered suggestions and ideas of great scientific value for the contents of the original research. I am also grateful for the bibliographical help given by...
J. Mª Carabaza Bravo, M. Fierro and my friend Dr. ‘Alī Tawfūq. The latter, an expert in translation technique, was also extremely helpful in the interpretation and translation of some Arabic texts.

I also wish to thank the Department of Education and Science of the regional Government of Andalucía which, by awarding me a scholarship within the program for the Development of Teaching and Research Personnel, allowed me to devote four years to the completion of my Ph.D. at the University of Huelva. This institution funded several visits to national libraries so that I could consult their resources.

Particular thanks are due to other persons whose assistance cannot be measured in scientific, academic or professional criteria, but in terms of affection and friendship although, in some cases, both facets are intertwined. In this respect, I owe a great deal to Fernando, who originally suggested this book to me and also supported it generously. I am also grateful to José Luis for his help in several hateful chores, like adapting the transcription system to the English language and compiling the index, and to Alexia Grosjean for making a final check of the translated text.

It goes without saying that any errors or omissions this book may contain are, obviously, of my own making and not attributable to those who provided help and support.
The purpose of this lexicon or glossary of terms is to make this book easier to consult considering the abundance of Arabic terms and concepts employed throughout it. Many of them are, moreover, legal technical terms for which available modern dictionaries (F. Corriente, J. Cortés, H. Wehr, R. Blachère, etc.) do not provide accurate translations. Throughout my research, furthermore, I have also occasionally used Arabic terms without providing their definitions and, as a result, non-Arabist readers may find it difficult to recall the meaning of this or that concept. That is why I have included this glossary where each term appears with the appropriate reference in the Encyclopédie de l’Islam whenever one is available.

To further complement this glossary or, rather, to get a broader range of meanings for particular words included in it, the reader is encouraged to look up the Vocabulario de Historia Árabe e Islámica by F. Maíllo Salgado (Madrid, 1996). For a more specialised view readers should consult the lexica and glossaries included in some studies on Islamic law. In my view, the most thorough and detailed one still is, despite having been written in the first quarter of the last century, found in D. Santillana’s classical work, Istituzioni di diritto musulmano malichita, between pp. 657–798 of volume II. Others less thorough are also worth consulting, among them L. Seco de Lucena’s Documentos arábigo-granadinos (pp. 149–164 of the Arabic section), J. Schacht’s Introduction au droit musulman (pp. 243–250) or, more recently, that included in the collective work Islamic Legal Interpretation. Muftis and their Fatwas (London, 1996, pp. 403–414).


Adhān call to prayer made by the muezzin from the minaret (E.I.², I, 193–194, T.W. Juynboll).

Al-aḥkām al-khamsa ‘the five qualifications’, legal value system which classifies all human actions into five concepts: obligatory (wajib or fard), advisable (mustahabb or mandūb), indifferent (mubāh), reprehensible (makrūh) and illicit (harām).
GLOSSARY OF ARABIC TERMS

‘Amal

Anqād
building materials of a hubs or value accrued to it in the shape of crops cultivated or buildings erected on it.

‘Aqī’d
contract (E.I.², I, 328–330, C. Chehata).

‘Aqīb, pl. āqāb
descent, posterity.

Ard baydā‘
lit. ‘white earth’, land under cultivation.

Aṣḥāb
(see ṣaḥāba).

‘Asib
agnate, relative from male line of descent.

Aṣl
property. Fundament, legal principle.

Bāṭil
invalid (E.I.², II, 849–852).

Bay‘
buying and selling or any kind of commutative contract (E.I.², I, 1144–1146, J. Schacht).

Bay‘a
ceremony of allegiance and proclamation of medieval Muslim rulers by the ‘flock’ of believers or ra‘iyya (E.I.², I, 1146–1147, E. Tyan).

Bayt al-māl

Bayyina
corroborating testimony (E.I.², I, 1185–1186, R. Brunschvig).

Biḍ‘a
religious innovation, heresy (E.I.², I, 1234–1235, J. Robson).

Bīmāristān

Birr
piety (E.I.², I, 1273, L. Gardet).

Buṭūgh
puberty (E.I.², I, 1024).

Dallāl

Dār
house.

Ḍarar
damage, harm.

Ḍay‘a
country estate, domain.

Dhāt
substance, essence of something (E.I.², II, 227, F. Rahman).

Faddān
‘Yoke of oxen’. Unit of measure (area) equivalent, in Egypt, to 6,368m²; in a broader sense, field, plot of land (E.I.², VII, 140, s.v. misāḥa, C.E. Bosworth).

Faqīh, pl. fuqahā‘
legal scholar, expert in fiqh (E.I.², II, 774, D.B. McDonald).

**Farā’id** system of compulsory hereditary quotas (*E.I.*, II, 802, T.W. Juynboll).

**Fard** compulsory act for a Muslim (*E.I.*, II, 809, T.W. Juynboll).

**Fard ʿayn** individual duty which all Muslims must carry out, e.g. the so-called ‘pillars of Islam’ (prayer, fasting, *zakā* and pilgrimage).

**Fard kifāya** collective duty carried out by some within a community so that the rest is exempt from it, e.g. *jihād*.

**Fatā, pl. fiṭyān** ‘young’, ‘brave’. In the Córdoban caliphate, officers serving the ruler, usually slaves in origin, and playing the higher roles in the administrative hierarchy (*E.I.*, II, 856).

**Fatwā** legal ruling issued by a *muftī*, expert in *fiqh* or Islamic law (*E.I.*, II, 886–887, E. Tyan and J.R. Walsh).

**Fay’** properties seized by force whose ownership theoretically belongs to the *umma* (*E.I.*, II, 889, F. Lokkegaard).

**Fiṭnā** (pl. *afniya*) ‘courtyard’. In *fiqh* the open space surrounding a house.


**Fi sabīl Allāh** ‘in God’s name’, expression used in a generic sense as a synonym of charitable or pious deed whereas, in its narrow sense, it refers to a donation made for the *jihād* or effort undertaken to expand Islam (*E.I.*, VIII, 699, C.E. Bosworth, s.v. *sabīl*).

**Futūya** the issuing of a *fatwā*.

**Ghalla** harvest or revenue generated by land.

**Gharar** fate, non-determination.

**Hadīth** account of the sayings or actions of the Prophet which make up the *sunna* (*E.I.*, III, 24–30, J. Robson).

**Hājj** pilgrimage to Mecca, one of the five pillars of Islam (*E.I.*, III, 33–40, B. Lewis).
Hajr legal incapacity affecting minors, slaves, insolvent debtors, etc. (E.I.², III, 52, J. Schacht).


Haqq Allāh lit. ‘divine right’ which can be identified as ‘public law’ in contrast with haqq ādami or ‘private law’.

Hawz boundary or city limits (E.I.², III, 309–310, G. Deverdun).

Hiba donation of a free property (E.I.², III, 361–362, Y. Linant de Bellefonds).


Hiyāza takeover of a donated asset.

Hubs, pl. aḥbās pious endowment (used in the western Islamic world), see waqf.

Hukm a judge’s or law expert’s ruling (E.I.², III, 568–570, A.-M. Goichon and H. Fleisch).

ʿĪbādāt religious duties or liturgical practices (E.I.², III, 668–669, G.-H. Bousquet).

Idhār final exhortation by a qādī to parties involved in a legal case so that they can expose their arguments before he issues a ruling.

Ifranj Arabic term designating the Franks and, in general, Europeans (E.I.², III, 1070–1073, B. Lewis and J.F.P. Hopkins).

Ifṭāʿ (see fuyāʿ).

Ijmāʿ legal consensus among fuqahāʾ on a particular issue (E.I.², III, 1048–1052, M. Bernard).

Ijtihād personal effort on the part of the jurist to interpret a legal case (E.I.², III, 1050–1053, D.B. MacDonald and J. Schacht).

Ikhtilāf disagreements in jurists’ points of view (E.I.², III, 1088–1089, J. Schacht).

ʿIlm al-farāʾīd lit. ‘science of the parts’, inheritance law (see farāʾīd).

Imām person in charge of leading the prayer. See imāma.

Imāma imamate, office of imam (E.I.², III, 1192–1198, W. Madelung).

Iṣhāʿ special prayer held during the month of Ramadān, also known as tarāwīḥ.
**Istihqāq**: claims on a property belonging to someone else arguing previous rights.

**Istihsān**: technique of legal argumentation based on the consideration of equity (E.I.², IV, 267–270, R. Paret).

**Istijār**: contract drawn up to hire services.

**Istīrāj**: duplicate of title deed or secret document stating the reason why someone is forced to act in a particular way.

**Istislāh**: method of legal argumentation based on the application of the criterion of maṣlaḥa or ‘public interest’ (E.I.², IV, 267–270, R. Paret).

**'Itq**: manumission of a slave.

**Iwād**: compensation (E.I.², IV, 298–299, Y. Linant de Bellefonds).

**Jāˈiz**: licit, permitted, one of the ahkām al-khamsa (E.I.², II, 400, C. Chehata).

**Jamāˈa**: community, sometimes used in legal rulings with the specific sense of rural community (E.I.², II, 417–424, J. Berque).

**Jāˈmi**: main mosque where the Friday prayer is celebrated at noon; according to Malikis, this can only be conducted in one of the local mosques.

**Kharāj**: territorial tax originally paid only by dhimmīs (E.I.², III, 1062–1087, C. Cahen).

**Khaṭīb**: preacher in charge of uttering the khutba prior to the noon Friday prayer (E.I.², IV, 1141–1142, J. Pedersen).

**Khaybar**: oasis located 150 kms. from Medina (E.I.², IV, 1169–1174, L. Veccia Vaglieri).

**Khilāf**: see ikhtilāf.

**Khutba**: sermon delivered by the khaṭīb (E.I.², IV, 76–77, A.J. Wensinck).

**Kūrāʾ**: lease (E.I.², V, 129, A.M. Delcambre).

**Madhhab**: legal school, four of which are Sunni (Mālikī, Ḥanbalī, Ḥanafī and Shāfiʿī).

**Madrasa**: centre specialised in the teaching of fiqh and, in general, of Islamic sciences (E.I.², V, 1119–1144, several authors).

**Mahjūr**: minor or disabled person. See ḥajr.

**Makhzan**: public treasury; by extension also administration, State (E.I.², VI, 131–135, s.v. makhzan, E. Michaux-Bellaire and M. Buret).
<table>
<thead>
<tr>
<th>Arabic Term</th>
<th>English Definition</th>
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<tbody>
<tr>
<td>Makrūh</td>
<td>abominable, reprehensible, one of the <em>ahkām al-khamsa</em>.</td>
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<tr>
<td>Māl, pl. amwāl</td>
<td>money, assets (<em>E.I.</em>^2^, VI, 205, M. Plessner).</td>
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<tr>
<td>Manār</td>
<td>minaret, towers from where the muezzin calls out to prayer (<em>E.I.</em>^2^, VI, 345–355, R. Hillebrand, J. Burton-Page and G.S.P. Freeman-Grenville).</td>
</tr>
<tr>
<td>Mandūb</td>
<td>advisable action, one of the <em>ahkām al-khamsa</em> (<em>E.I.</em>^2^, VI, 393).</td>
</tr>
<tr>
<td>Manfā'a</td>
<td>usufruct, benefit.</td>
</tr>
<tr>
<td>Marja'</td>
<td>ultimate aim of a pious or public nature which must accompany a family donation or <em>mu'aqqab</em>, in anticipation of the line of descent dying out</td>
</tr>
<tr>
<td>Mas'ala, pl. masā'il</td>
<td>question or query posed to the <em>muftī</em> (<em>E.I.</em>^2^, VI, 621–624, H. Daiber).</td>
</tr>
<tr>
<td>Mashhūr</td>
<td>lit. ‘known’ or ‘publicised’; in cases of legal disagreement it refers to the view held by the majority of jurists of the <em>madhhab</em> (<em>E.I.</em>^2^, VI, 706, G.H.A. Juynboll).</td>
</tr>
<tr>
<td>Mašlaḥa, pl. mašāliḥ</td>
<td>general or public interest (<em>E.I.</em>^2^, VI, 727–729, M. Khadduri).</td>
</tr>
<tr>
<td>Masrif, pl. masārif</td>
<td>aim or purpose of a <em>tahbīs</em>. See <em>wağh</em> and <em>qaṣd</em>.</td>
</tr>
<tr>
<td>Mawdī</td>
<td>place, field.</td>
</tr>
<tr>
<td>Mawlid</td>
<td>birth, specifically that of the Prophet whose celebration by the <em>fuqarah</em> was regarded as a <em>bida</em> by <em>fuqahā</em> (<em>E.I.</em>^2^, VI, 886–889, H. Fuchs, F. de Jong and J. Knappert).</td>
</tr>
<tr>
<td>Milk</td>
<td>property, in both an abstract and concrete sense (<em>E.I.</em>^2^, VII, 61, A.M. Delcambre).</td>
</tr>
<tr>
<td>Mu' adhdhin</td>
<td>muezzin in charge of calling out to prayer from the mosque’s minaret. See <em>adḥān</em>.</td>
</tr>
<tr>
<td>Mu'aqqab</td>
<td>lit. ‘differed’; family donation made in favour</td>
</tr>
</tbody>
</table>
of the donor’s descendants (‘aqib) in a continuous succession until the line of descent becomes extinct in which case it must be handed over to the marja‘ or last-instance beneficiary.

**Mu‘āwaḍa**
barter or exchange (**E.I**.², VII, 265, O. Spies).

**Muftī**
jurist, faqīh specialised in issuing fatāwā.

**Muğhārasa**
contract of co-plantation (**E.I**.², VII, 348).

**Muḥabbas ‘alay-hi**
beneficiary of a taḥbīs.

**Muḥabbis**
donor of a ḥubs.

**Mujtaḥid**
faqīh who practises ijtihād.

**Munya**
‘wish’, ‘desire’. In Andalusian Arabic, ‘orchard’.

**Murū’a or murū’wa**
manhood, virility or virtus; the set of ideal qualities found in an Arab man (**E.I**.³, VII, 636–638, B. Fares).

**Musāqā**

**Mushāwar**
faqīh member of the shūrā.

**Mustaftī**
person who asks for a fatwā to be issued.

**Mustaḥabb**
(see mandūb).

**Mustakhlaṣ**
private patrimony of the caliph.

**Mūṭlaq**
lit. ‘free’, ‘loose’; applied to a ḥubs it refers to that whose aim is not known, either because the donation deed is lost or it does not include stipulations to that effect.

**Muzāra‘a**
contract of agricultural partnership (**E.I**.², VII, 824, M.J.L. Young).

**Nāziala, pl. nawāzil**
legal case, occurrence presented to a jurist so that he can issue a fatwā (**E.I**.², VII, 1054–1055, C. Pellat).

**Nāzir**
administrator of a ḥubs designated by the donor (**E.I**.², VII, 846, A.J. Wensinck).

**Niṣāb**
minimum amount exempt from paying the zakā set at 5 awsuq.

**Qabāla**
leasethold contract affecting a number of assets (mill, salt mine) equivalent to the kirā‘ (**E.I**.², IV, 337–339, C. Cahen).

**Qabd**
handover of the donated asset to a beneficiary (**E.I**.², IV, 340, Y. Linant de Bellefonds).

**Qaryya**
village (**E.I**.², IV, 708, A.N. al-Wohaibi).

**Qaqd**
see wajh.
Qawm community, tribe (E.I.², IV, 812, A.J. Wensinck).
Qurba pious deed.
Rabād urban suburb (E.I.², VIII, 361–362, É. Lévi-Provençal).
Rābiṭa small mosque, oratory (E.I.², VIII, 372). See zāwiya.
Raʿiyya flock, it designates all members of society who swear
an oath of allegiance to a ruler via the baʿy’a (E.I.²,
Raqaba substance of something or of an asset, as opposed to
manfaʿa which refers to the enjoyment or usufruct of
an endowment.
Raʿy a faqih’s personal opinion.
Riwāya version of a faqih’s personal views (E.I.², VIII, 563–565,
S. Leder).
Ṣadaqa Quranic concept referring to the notion of charity
or alms-giving (E.I.², VIII, 729–737, T.H. Weir and
A. Zysow).
Ṣaḥāba Muhammad’s companions whose testimony is a source
for the Sunna (E.I.², VIII, 856–857, M. Muranży).
Ṣāḥib al-aḥbās deputy of a qāḍī responsible for managing the aḥbās,
documented in al-Andalus between the 3rd–5th/9th–11th centuries.
Ṣāḥib al-ṣalā in charge of leading the prayer at Friday mosques
in big towns, an office usually linked to that of the
qāḍī.
Ṣahīh valid, right (E.I.², VIII, 865–866, G.H.A. Juynboll,
R. Peters, M.G. Carter).
Ṣalā prayer, one of Islam’s five pillars (E.I.², IX, 956–965,
G. Monnot).
Ṣalāt al-janāʾiz funerary prayer.
Samāʾ lit. ‘audition’; in legal texts it refers to oral testimonies,
ʿalā-l-samāʾ, for instance in order to set up a taḥbīs
(E.I.², IX, 1052–1055, J. During and R. Sellheim).
Ṣarīf transfer of revenues from a ḥubs to another, for
instance from a mosque with a surplus to another
in need.
Sawād lit. ‘blackness’. Name of one of the territories con-
quered by the caliph ʿUmar (E.I.², IX, 90–91, H.H.
Schaeder). In Ibn al-ʿAṭṭār’s treatise for notaries it
has the meaning of ‘area covered with trees’.


Sharīṭ in a general sense, clause. It refers to the stipulations made by a donor regarding the aim of his donation, that is its beneficiary or beneficiaries, the way in which the usufruct of its revenues must be allocated, etc. (*E.I.²*, IX, 370–372, W.B. Hallaq, I.R. Netton and M.G. Carter).

Shuf'a right to retract (*E.I.²*, IX, 513–514, M.Y. Izzi Dien).

Shūrā Andalusian institution made up of fuqahā’ in charge of advising a qādī and, in the case of Córdoba, the emir or caliph (*E.I.²*, IX, 524–526, C.E. Bosworth, M. Marín and A. Ayalon). See mashwara.


Sunna Prophetic tradition, consisting of all the ḥadīths or accounts of the sayings and deeds of Muḥammad (*E.I.²*, IX, 913–917, G.H.A. Juynboll and D.W. Brown).


Taḥbīs donation of an asset via the legal procedure of a ḥubs.

Taqlīd adherence to or imitation of another jurist’s opinion (*E.I.²*, X, 148–149, N. Calder).

Thaghr, pl. thughūr borderland.

Thulth lit. ‘third’, it refers to the third of free disposal allowed to a testator in his will.

Thumma lit. ‘then’, ‘afterwards’, a particle used in a taḥbīs to indicate the separation between parents and children as beneficiaries of a donation.

Umm walad lit. ‘mother of a child’, concubine who gives birth to her owner’s child.

ʿUmra donation for life in which a beneficiary does not enjoy ownership but only the usufruct.

ʿUrf (see ʿāda). ʿUshr tithe, amount paid as zakā.

Uṣūl al-ḥīḥ sources of the ḥīḥ: the Qurān, the Sunna, the ijmā’ and the qiyyās.