RELIGIOUS DISSENSION IN AL-ANDALUS: WAYS OF EXCLUSION AND INCLUSION

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

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

1 A previous version of this paper was read at the Seminar «Conversion to Islam in the Mediterranean Muslim World», organized by the European Science Foundation, Escuela Española de Roma (September, 1997), within the project Individual and Society in the Mediterranean Muslim World, Workshop n.° 6, Religious activity and experience, teamleader M. García-Arenal. It was also read at the International Medieval Congress, University of Leeds (July, 1997).
2 A related possibility was that information could be given by extraordinary means, such as dreams. See an example in Fierro, M., «Religious beliefs and practices in al-Andalus in the third/ninth century», Rivista degli Studi Orientali LXVI (1993), 15-33, 21-2.
3 As D. Stewart has recently reminded us, «One is not considered a heretic in Islam for drinking alcohol, and one is not excluded irrevocably from the community of believers for doing so... To hold the opinion that it is not sinful and forbidden to drink alcohol is to go against the consensus and leave the community of believers»: Stewart, D., Islamic Legal Orthodoxy. Twelver Shiite Responses to the Sunni Legal System, Salt Lake City, 1998, 47. To consider licit drinking wine was one of the accusations made against the shâfi İbn Ahlâ (d. 645/1247): see Martin, M., Mujeres en al-Andalus, Madrid, 2000 (Estudios Onomástico-Biográficos de al-Andalus, XI), 407.

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passage of someone who had once been faithful (mu'min, muslim) to infidelity (kufr).

Apostasy is a crime punished in Islamic law by the death penalty, either death by the sword or decapitation. Crucifixion is contemplated in the case of a blasphemer. Exile is another possibility. In some Islamic texts, deviation from fundamental religious principles in the form of apostasy and heresy was regarded as treason against the state and revolt against the social order, thus existing the tendency of assimilating «apostates, rebels and brigands», as the title of Kraemer’s study reads.

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


accusations of heresy and apostasy in al-Andalus show that they only led to trial and execution when the ruler saw or was made to see in the accused a political danger in times of upheaval or external threat. Most of those accusations did not involve legal prosecution, but even so they could be quite effective in censoring and damaging those accused.

What were the mechanisms by which exclusion of heretics, apostates and innovators operated in a pre-modern Islamic society, that of al-Andalus? What were the mechanisms or strategies by which those labelled as heretics managed not to be excluded or if they had been, managed to be reincorporated into their social and religious milieu?

WAYS OF EXCLUSION FROM THE COMMUNITY

In the case of accusations of heresy and apostasy that did not lead to trial and did not bring any threat to the life of the accused, exclusion could be operated by the accusation itself and related terms of abuse, by the idea of impurity, by social isolation, by the destruction of books and by refutations. As regards the case of accusations of heresy and apostasy that led to trial, exclusion could also be brought about by the accusation itself and related terms of abuse, by the idea of impurity and by social isolation, but it could also involve loss of Muslim status, imprisonment, physical punishment, exile or execution.

The accusation itself and related terms of abuse. God knows who the heretics and sinners are and will punish them in the other world, but those who remained in this world would not know it, except by the ways pointed out by Ibn Rushd al-Jadd (see above). In any case, simply to make an accusation of heresy, even if unproven and without legal consequences, marked the person accused apart from his contemporaries. That in itself «isolated» him in the community either in a temporary or more lasting way. The accusation of zandaqa against 'Abd al-A'lä b. Wahb (d. 261/874), probably caused by his Mu'tazili ideas, did not lead to any trial and he continued being a respected member of the scholarly elite in Umayyad Cordoba, but it made him temporarily lose his authority as jurist consultant to the judge (mushāwar). The Cordobán qāḍī, in fact, consulted him in the trial for blasphemy against the nephew of 'Ajab, but the Umayyad emir did not accept 'Abd al-A'lä b. Wahb's opinion (favorable to the acquittal of the blasphemer) arguing that his opinion was not worth considering because of that accusation of zandaqa that had been formulated against him. The decrees

* See Fierro, Heterodoxia, 49-53.
promulgated by ‘Abd al-Rahmân III against the Masarrîs accusing them of ilhâd, bid‘a and zaygh, accusations accompanied by numerous terms of abuse, were read publicly in the mosques. 10

Accusations of heresy were occasionally exchanged among scholars merely as terms of abuse, arising from much the same mixture of intellectual ferment and personal intrigue that often go together in academic disputes. One of these cases could have been the accusation of zandaqa against Ibn ‘Atiyya (d. 541/1147), for which no explanation is given in the sources, although it might have been provoked by his Ash‘arîsm. 11 Ibn García (5th/11th century) was accused of zandaqa because of his shu‘ibîsm, as if being anti-Arab made him anti-Muslim. 12 Rulers tried to control the social and legal impact of such accusations. This was the case of the Almohad caliphs, as shown by a letter from Abû Ya‘qûb Yûsuf (558/1163-580/1184). 13

It was common in Islam to discredit the holders of a certain doctrine by assimilating them to members of another religion with formulas such as «the Qadarites are the Zoroastrians of this community» (al-qadariyya majûs hâdîhi al-umma) or «the Shi‘ites are the Jews of our community». 14 Tarîf, the founder of the heretical religion of the Berber Barghawata, was presented as a Jew, as was the Fatimid ‘Ubayd Allah al-Mahdî. Some Andalusi heretics or suspects of heresy and deviation were said to be Jews. This happened, for example, with the philosophers Ibn Bâjja (Avempace) 15 and Ibn Rushd (Averroes). 16 A dead

ascetic contacted the Cordoban Ibn Waḍḍāḥ (d. 287/900) in his dreams to inform him that his son was having encounters with a Jew who taught him heretical doctrines, in a context which makes possible the interpretation that «Jew» might be used as a term of abuse to refer to a Muslim holding heretical doctrines.  

«To be a Christian» was mainly used as a term of abuse against rulers who established alliances with the Christian enemy. Thus, the Arabic sources accuse a member of the Nāṣrids of Granada of being «Christianized». Christians played an important role in the internal fights among Muslims, as their alliance was sought by the contending parties. This entails that in the chronicles, which give us the view of the central power, a usual way of attacking Muslim rebels is to point out their alliance with Christians. This is especially so in the case of Ibn Mardanîsh (6th/12th century), a ruler accused of not being Muslim because of his contacts with Christians and his alleged «Christian» behaviour, such as drinking wine.  

Alliances with Christians, however, were so widespread among contending Muslim parties that its scandalous nature was usually remembered only in the context of propaganda and ideological fights. This means that when, for example, the murder of the Sufi rebel Ibn Qaṣī by his followers is explained in the sources as a punishment for his alliance with the Portuguese, this implied that the alliance was seen as having more negative consequences than positive ones by those who got rid of their former leader.

As regards accusations that led to trial, a document (wathîqa) of accusation of zandaqa has been preserved by Ibn Mughîth (d. 459/1067):

The witnesses who sign this document testify that they know Fulân b. Fulân by his name and in person and that they know that he belongs to the ahl al-ta‘nî of those who follow the doctrine of the heretics (madhhab al-zandîqa) and that they heard him saying words that certify heresy against him and prove it against him from his disregarding... [what is] obligatory for Muslims and his turning

17 See Fierro, «Religious beliefs and practices in al-Andalus», 21-2. However, there were Jewish teachers of Muslim scholars. For example, a contemporary of Ibn Waḍḍāḥ, the North African Shi‘î Ibn al-Haytham, studied logic with a Jew in Qayrawān: see Madelung, W., and Walker, P., The advent of the Fatimids: a contemporary Shi‘î witness, London, 2000, 112.


21 The term refers to the denial of God’s attributes, and more generally, to unbelief or atheism. See Chokr, M., Zandaqa et zindîqs en Islam au second siècle de l’hégire, Damascus, 1993, 246.
away from them by declaring false the divinity... This is testified by all those who knew him and heard him saying what was said openly and spoken distinctly and made public.  

Apart from the labels discussed above, heretics subject to the action of justice had to suffer other kinds of verbal and physical abuse. The heretic Abū l-Khayr was referred to as Abū l-Sharr, changing the «good» of his kunya for «evil». The list of accusations made against him include homosexuality, drinking wine, eating pork, mocking Muslim practices, non performance of the obligatory prayers, comparing human beings with plants. When the muḥtasiba detained Ibn Ḥātim al-Ṭulayṭuli in Cordoba, they grabbed him by the hair, slapped him and drove him, barefoot and with this head shaven, before the judge.

Impurity. The infidel (mushrik) is impure, and impure are also Jews and Christians, so that when they convert to Islam they must perform the major ritual purification (ghusi), as it is stressed in the documents of conversion recorded by Ibn al-ʿAṭṭār, Ibn Mughith and al-Jazîrî. Purification is especially stressed in the case of the Christian, not in the case of the Jew, for whom the minor ritual ablution is enough, as it is needed in order to perform prayer. The apostate or heretic who repents must perform the major ritual ablution, as shown also by the legal document recording the process of repentance (see below). The Almohads purified the mosques of the territories over which they ruled. Ibn Hūd did the same with Almohad mosques, thereby implying that the mosques themselves and the behaviour of those who had previously prayed there were not properly Islamic.

22 Ibn Mughîth, al-Muqniʾ, b. ʿilm al-shurûṭ, ed. F. I. Aguirre Sádaba, Madrid, 1994 (Fuentes Árabe-Hispanas, 5), 347-9, n.° 64. Ibn Mughîth is the only author of a work on shurûṭ who includes such a document. He was involved in the accusation of zandaqa made against Ibn Ḥātim al-Ṭulayṭuli, executed in 464/1072 (see below note 25). The inclusion in his work of this document must be related to Ibn Mughîth’s participation in Ibn Ḥātim’s trial.

23 See Fierro, Heterodoxias, 149-55.

24 The last accusation seems to be a standard one in cases of heresy: see Chokr, Zandaqa et zindigs, 80, 82, 116, 244, 263, 294.


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

Social isolation. Apart from the terms of abuse just mentioned, a mechanism to isolate and expose heretics recorded in Islamic law is not to pray behind them or, if the prayer had to be performed, to repeat the prayer immediately. When the practice of making the invocation in the name of the ruling Almohad caliph after the prayers in congregational form was introduced into al-Andalus in the sixth twelfth century, some of the Mâliki fiqâhâ, namely Abû ‘Abd Allâh b. Mujâhid (d. 574/1178) and his disciple Abû ‘Imrân al-Mîrtûlî, opposed it at the risk of their lives, wanting to make the point that the practice was to be rejected. Heretics and innovators should not be visited if they are sick and the funeral prayer should not be said when they die. The marriage of the heretic is considered to be invalid; if he repents, he has to marry again. The «sanitary barrier» that believers should erect to isolate the innovator or heretic is the recurrent theme in Ibn Waḍḍâh’s Kitâb al-bida’. Those suspected in their doctrines might also be confined to their houses.

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

Al-Jazïrî also records some documents that he describes as novelties and that had the function of stating someone’s good or immoral conduct. Pressure made by family and friends of the heretic or deviant has left almost no traces in the extant sources, but it undoubtedly existed.

It is forbidden to engage in debate (mujâdala) with innovators (aṣḥāb al-ahwā’), as nothing can be gained from it and much can be lost, because they can incline you to their innovation or raise doubt in your faith. Only those who are prepared and sure to come out victorious should do it. This was the case of the Cordoban traditionist Baqi b. Makhlad (d. 276/889) who defeated in scholarly debate the Qadari Khalîl al-Ghafla (second half of the 3rd/9th century). The latter’s books were burnt after his death. It was also the case of Muhyî l-dîn Ibn al-‘Arabî, who convinced a philosopher of the existence of miracles performed by saints.

Rejection and disapproval could be shown by pronouncing legal opinions which might have never been put into practice, but helped creating a «climate of opinion». For example, Malik b. Anas (the founder of the Mâlikî school of law) was asked about people in the Maghrib who followed a wrong ritual practice (they only made two rak‘as instead of four) and he said that they should be offered the possibility of repentance and if not, executed. According to the Cordoban jurist Ibn al-Ḥâjj (d. 529/1134), those who deny the punishment of the grave (fitnat al-qabr) and the arrival of the two angels must be beaten until they repent or die; in case they repent, they are free. Who states that the Qur’ân is created will be invited to repentance and condemned to death if he does not.

Many Andalusîs are described as having been «harsh against the innovators» (shadîd ‘ala ahî al-bida’), censoring and forbidding what was wrong and by their moral and religious authority stopping wrong practices or showing which
practices were the correct ones. Such was the case of a man who divorced his wife by pronouncing the *li‘ān* formula publicly in the mosque of Cordoba in order to revive the *sunna*. The voluntary practice of ordering good and forbidding evil (*al-amr bi-l-ma‘ruf wa-l-nahi ‘an al-munkar*) could, however, be dangerous if seen as rivalling the coercive power of the state or as a threat to the state itself, especially if, as in the case of al-Ṭalāmānki, those who performed it went to the extreme of declaring that all Muslims, judged by them to be in rebellion against God, were to be put to death. The fact that the *takfir* or accusation of infidelity could bring about the death punishment determined a certain reluctance to use it or at least to concede the benefit of doubt to those who declared to profess the *shahāda*, leaving to God to judge the sincerity of such profession. A parallel could be traced between the fact that in Islam fornication and the accusation of fornication are considered to be crimes equally serious and the fact that traditions circulated making the same comparison between infidelity and the accusation of infidelity. One such tradition, recorded by Abū Dāwūd (d. 275/889) says, «If a Muslim accuses of *kufr* another Muslim, he is a *kāfir* if the accusations is false» or «No *hadd* should be applied in the ambiguous cases». What characterizes Sunnī Islam from Khārijī Islam is a great caution about declaring a Muslim infidel.

As regards the accusations that led to trial, when Ibn Ḥātim escaped from Toledo, a man called Ibn Labīd al-Murābīt visited different Taifa kingdoms, collecting *fatāwā* against him and thus weaving a net around him from which Ibn Ḥātim was unable to escape. Ibn Ḥātim, who had been in charge of the *tazkiya* (attestation of a witness’ honorable record) in Toledo, was thus stripped of his probity. Heretics, as I have mentioned before, could not act as witnesses in court. In the case of the philosopher Averroes, he was proclaimed in the mosque of Cordoba to have deviated from religion (*māriq ‘an al-dīn*); he and his son were expelled from the mosque.


47 See Fierro, *Heterodoxia*, 85 with references. The latter tradition (*idrā‘i l-budād bi-l-shubhāh*) would deserve a study of its own.


Destruction of books. A way to stop certain ideas spreading was the burning of books, as happened with the Zâhirî Ibn Hazm (d. 456/1064). He, however, admonished the ‘Abbâsid ruler of Sevilla responsible for it about the limits of the latter’s action, saying that his books could be destroyed but not their contents which remained in his heart. 50 The books of the Qadari Khalîl al-Ghafla were also burnt, but only after his death. 51 The famous destruction of books of suspect sciences (those of the «ancients») preserved in the library of the Umayyad caliph al-Ḥakam II was ordered by al-Manṣûr b. Abî ‘Àmir, in an attempt to increase his level of religious legitimacy. 52 These episodes might explain the fact that Mu’tazilî works did not circulate in al-Andalus, their absence being commented upon by the philosopher Ibn Rushd. 53 And this was so in spite of the fact that Mu’tazilism had been favoured by members of the Cordoban elites in the 4th/10th century. 54 Official burning of books did not stop after Almanzor’s death. The Cordoban qâdi Ibn Ḥamdîn ordered the burning of al-Ghazâlî’s books during the Almohavid period. 55 Fearing persecution, Abû Bakr b. al-‘Arabî (d. 543/1148), who had been the main agent in introducing al-Ghazâlî’s works into al-Andalus, destroyed and threw into the sea his copy of al-Ilhâm. 56 Under the Almohads, attempts at burning Mâlikî furū‘’ works are mentioned. 57 After the persecution against Averroes, the Almohad caliph al-Manṣûr wrote a letter in which he ordered the burning of philosophical works. 58 The burning of heretical books was supported by the Nasrid qâdi al-Bunnâhî (d. 792/1390). 59

Writing refutations. If debates in person with heretics and innovators were to be avoided, written refutations of mistaken or heretical doctrines were more acceptable. The Andalusîs wrote treatises against innovations (kutub al-bida‘) in order to make it clear which practices and doctrines were wrong. 60 Mundhir b.
Sa’îd al-Ballûtï wrote a book of radd against sectarians and innovators (lost).  

so did Ibn Ḥazm and Abū Bakr b. al-‘Arabî. The latter, Mālikî-Ash’arî, refuted the doctrines of the Zâhirî Ibn Ḥazm. In fact, the refutation of Ibn Ḥazm’s or Zâhirî doctrines seems to have been a common occupation of Andalusî scholars. Refutations of philosophy were written at the time of the trial of Ibn Rushd and the persecution of philosophers. The refutations could produce counter-refutations, as shown in the case of the well known refutation of philosophy by al-Ghazâlî and its refutation by Averroes. The same could happen regarding specific practices, as in the case of the invocation after prayer, studied by M. Kh. Masud. Al-Shâtibî opposed it. From a letter written by al-Shâtibî to one of his followers, it appears that an imâm who rejected this practice in favour of al-Shâtibî’s position was deposed from imâma and was denied all other privileges and put on trial. Refutations were written against al-Shâtibî by his contemporaries al-Bunnâhî (Mas’alat al-du ‘à’ ba’d al-ṣalât) and Abū Sa’îd b. Lubb (Mas’alat al-ad’iyya ithr al-ṣalât). Al-Shâtibî’s disciple Abū Yahyâ b. ʿÂsim (d. 813/1410) wrote a treatise refuting Ibn Lubb and supporting al-Shâtibî. Muhammad al-Fishtâli, qâdi in Fez, wrote a refutation of Ibn ʿÂsim, supporting Ibn Lubb (Kalâm fi l-du’â’ ba’d al-ṣalât ‘alâ al-hay’a al-ma’âlûda). Ibn ʿArâfî (d. 803/1400), qâdi in Tunis, also entered into the discussion when he was asked for a fatwâ on this issue by someone in Granada. All this activity had to do with struggles among scholars for the definition of correct belief and practice, and for the establishment of their own reputation as upholders of orthodoxy.


63 See A’rab, Ma’a l-qi‘âb Abî Bakr b. al-ʿArabî, 144, n.° 46; 150, n.° 57.


66 See the study by Bello, I. A., The medieval Islamic controversy between philosophy and orthodoxy. Ima’ and ta’wil in the conflict between al-Ghazâlî and Ibn Rushd, Leiden, 1989, with references.

67 See Masud, Shatibi’s philosophy of Islamic Law, 77.
Prison. Those accused of heresy had to stay in prison during the trial and after, if proved guilty. There they had to decide whether to repent if they had been granted the istitaba, i.e. the possibility of repentance (which was always granted to apostates, as happened in the case of the Cordoban apostates in the so-called movement of the voluntary Christian martyrs and İbrāhîm al-Qurashi). The traditionist Muḥammad b. ‘Abd al-Salām al-Khushanî was put in prison during the episode of the tensions between traditionists and Mālikîs in the second half of the third/ninth century: as a scholar and member of the urban elite, he was appalled at the unhygienic conditions he had to face during his imprisonment. A descendant of Ibn Ḥazm who died in 540/1146 was persecuted at the end of the Almoravid period, accused of being a bāṭînî; he was imprisoned and lost his properties. The philosopher Ibn Bājjâ (d. 533/1138) was imprisoned accused of heresy in Játiva and freed thanks to the intervention of the Mālikî jurist Ibn Rushd al-Jadd.

Physical punishment. This could be inflicted, even if torture was forbidden in principle. A story widely spread in al-Andalus (it appears in the Andalusi treatises against innovations) was the story of the innovator Šâbîgh al-‘Irāqî, who was physically punished by ‘Umar b. al-Khaṭṭâb until he repented. The same penalty was supported by Ibn al-Ḥājj for those who denied the fitnat al-qabr, although it was probably never applied.

Execution. Those accused of heresy and blasphemy in al-Andalus who were sentenced to death were crucified and then pierced to death on the cross, as happened in the cases of the blasphemer known as ‘Ajāb’s nephew, the zindiqs Abū l-Khayr and Ibn Ḥātim, the philosopher Ibn Ḥābiñ al-Qasrî and ‘Abd al-Wahhāb b. ‘Abd al-Ṣamad al-Ṣadafî. This practice ran counter the legal

68 See Fierro, Heterodoxia, 53-7, 128.
70 See Fierro, «Religión», in vol. VIII/2 of Historia de España, 474.
71 See EF, III, 750 [D. M. Dunlop].
73 See Ibn Waddâh, Kitāb al-bida’, X, 8-10. See on Šâbîgh Goldziher, Muslim Studies, II, 84.
74 See above, note 42.
theory in favour of decapitation, defended for example by Abū ʿUmar b. ʿAbd al-Barr (d. 463/1070). 76

According to a text by Ibn Saʿīd (d. 685/1286), the populace in al-Andalus had such hatred of philosophy and astrology that whoever studied them was labelled as a zīndiq and risked being lappedated or burnt without the sultan’s intervention. 77 I have not found any evidence that such acts ever took place. The possibility of someone killing an heretic without the sultan’s permission was, however, discussed in Andalusi legal writings. 78

Exile (nafy). According to a ḥadīth transmitted by ʿĀʾisha, apart from execution, there was the possibility of exile as punishment for heretics. 79 In the second half of the 4th/10th century, scholars became involved in a debate on the existence of miracles of the saints and al-Maʾṣūr b. Abī ʿĀmir sent the factions involved into exile. 80 The philosopher Ibn Rushd, after being publicly denounced as an heretic in the mosque, was sent into exile to Lucena (a town known as «Lucena of the Jews», as Ibn Rushd had been accused of being of Jewish origin). 81

Loss of Muslim status. No funeral prayer could be said upon the heretic, blasphemer or apostate, no Muslim could inherit from him, his property going to the bayt al-māl, and his marriage became nul and void. 82 In the case of the secretary Qūmis b. Antunyan, the main issue of knowing whether he had died as Christian or Muslim was where his inheritance should go. 83 In case of necessity, some jurists allowed the killing of religious deviants and rebels and eating them. 84

81 See above note 49.
82 See Pierro, Heterodoxia, 183.
83 Id., 77-80.
HOW TO AVOID AND RESIST EXCLUSION, AND WAYS OF REINCORPORATION INTO THE
COMMUNITY

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

Autocensorship. When people felt that certain practices were disapproved of or suspect in their orthodoxy, they might decide not to engage in them in order to ensure salvation in the other world and avoid exclusion in this. Muḥammad b. ‘Alī b. ‘Ayyāsh (d. 546/1151) was imām in the Great Mosque of Cordoba. He was interested in medicine and decided to study in Sevilla with ‘Alī b. Barrajan, expert in hadith and medicine, and the brother of the famous Şūfi Ibn Barrajan, who died in Marrakech in suspicious circumstances. One day when Ibn ‘Ayyāsh was copying books by Galen, he fell asleep and saw in dreams the muqrī’ Abū l-Hasan al-‘Abbāsī, who censored him for having abandoned the recitation of the Qur’ān and the hadith. When he awoke, he abandoned his medical studies and devoted himself to hadith. After some time, he saw again Abū l-Hasan in his dreams and this time the latter showed his approval of him. 85

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

They insult this book, when they attribute to it
what it does not contain, because they do not know it.
If they understood its value, they will not despise it;
if they knew its true merit, they will praise it.
They lie, ¡by God! If they knew it
they will not attribute it what they do...! 86

Abū l-Walīd al-Bājī (d. 474/1081) was respected and sought after for his knowledge when he returned to al-Andalus after having studied in the East the art of polemics (jadal), Ash‘ari theology and Mālikī usūl al-fiqh. In connection with his reliance on Prophetic traditions, al-Bājī transmitted the hadith according to which the Prophet wrote (kataba) on the day of Hudaybiyya (hadith al-muqādāt), and openly maintained that the Prophet did so, despite his being illiterate (ummi). Al-Bājī encountered the hostility of an ascetic preacher who

86 See Terés, E., «Enseñanzas de Ibn Ḥazm en la Ḣawīf as al-muqtabis de al-Ḥumaydī»,
Al-Andalus XXIX (1964), 147-178, 175, quoting al-Ḥumaydī’s Jadhīwa.
wanted to stress the illiteracy of the Prophet as a way of enhancing the miraculous nature of the Qur‘ān. That hostility did not lead to al-Bājî being placed on trial, but he was publicly accused by the preacher of infidelity (kufr), heresy (zandaqa) and of introducing innovations (tabdîl). Al-Bājî defended his doctrine of the ḥadîth of Ḥudaybiyya by writing a detailed exposé of his position and by obtaining the written support from other scholars. 87 We have seen already how the refutation of a certain doctrine gave often rise to the writing of counter-refutations.

Dissimulation or taqiyya. It was said of the Ḥammūdīd caliph Qāsim b. Ḥammūd that he was Shi‘ite, but concealed it. 88 Dissimulation was adopted mainly by the falāsifa, not only to escape persecution, but for the welfare of mankind, according to the following argument: reason may be universal, but not all men are able to grasp rational thinking. The falāsifa tended to assume a prudent, discreet posture in the societies where they lived. Ibn Ṭufayl (d. 581/1185) stated that those who searched the truth with the only aid of reason were scarce in al-Andalus and that they talked about their results only in allegorical form, in order to avoid problems with the upholders of religious law. 89 Ibn Ṭumās (d. 620/1223) manifested himself favourable to dissimulation, praising al-Ghazālī for having altered the technical terms of logic and having disguised them with terms usual among the jurists in order to avoid persecution, as had happened to al-Fārābī. 90 Averroes described the difficult position of the philosophers in non philosophical societies 91 and wrote his famous treatise on the compatibility between religion and philosophy 92. Kraemer has shown that apparent deviants like the Mu’tazilī or the falāsifa were not persecuted as such, because although they upheld the supremacy of reason over revelation, they expounded a system which retained the revealed law of Islam intact. Kraemer describes them like the dhimmīs of the Islamic state, a tolerated minority, who remained relatively free from harm provided they maintained a low profile and did not openly attempt to convert others to their views. 93

87 See Fierro, «Religión», in vol. VIII/1 of Historia de España, 425.
93 Kraemer, «Heresy versus the state in Medieval Islam», 175.
As regards accusations that led to trial, the strategies for avoiding punishment and for being re-incorporated into the community of believers were: to go into hiding or leave the country and wait for better times, to challenge the witnesses of the prosecution, to repent, to be pardoned by the ruler.

**Hiding.** The fact that trials for *zandaqa* had much to do with struggles between factions of scholars, meant that the passage of time could change the balance of force. Thus, going into hiding, as Baqî b. Makhlad, Ibn Ḥātim al-Tulaytūlī, the philosopher al-Dhahabī and others did, not only served momentarily to save their life (although not always in a permanent manner), but also allowed them time to wait for a reversal of the situation. The issue of the permissibility of giving shelter to an accused of heresy (*ilḥād, zandaqa*) was discussed by the jurists in the case of Ibn Ḥātim, and they forbade giving a heretic refuge, on the grounds of Qurʾān 58:22 and a tradition in which the Prophet is reported to have said: «Madina is sacred. Whoever introduces into it an innovation or shelters an innovator, upon him be the curse of God, the angels and the people all together». Both texts make it clear that whoever helped a heretic would be doing something unlawful and therefore subject to punishment. Ibn Ḥātim had found refuge with the king of Badajoz, but when Ibn Labīd al-Murābit arrived there with documents where such an action was deemed to be unlawful, the king disavowed any responsibility for Ibn Ḥātim. Ibn Bāṣja’s pupil ‘Alī b. Jūdī (d. 530/1135), also considered a heretic and persecuted, had to escape and took refuge with bandits. Abū Bakr b. Ṣārim al-Iṣbīlī was also persecuted for *zandaqa*: fearing the death penalty, he decided to escape to the East, but died tragically in the burning of the house where he had taken refuge. Another scholar involved in philosophical studies, Saʿīd b. Fathūn al-Saraqūstī, left al-Andalus never to return.

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

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

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

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

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The trial could lead to a proclamation of innocence of the accused, as was the case with al-Ṭalāmankī: the qādī of Saragossa rejected the accusations against him and produced a certificate attesting his innocence. 103

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

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

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

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

103 See Fierro, «El proceso contra Abū ‘Umar al-Ṭalāmankî», 122. An example of such a certificate is given above (note 36);
104 See Fierro, Heterodoxia, 63-70. Of course, this defence was successful mainly because the accused was the brother of an influential of the time, ‘Abd al-Malik b. Ḥabīb.
105 Ahmad al-Qashtālī, Taḥfīz, 82.
106 See Fierro, Heterodoxia, 59.
His divinity and thanking God for what had inspired him and the favours bestowed upon him for his escape from infidelity towards faith and the adhesion to the religion of Islam. And he performed a major ritual ablution for his return and prayed and testified that there is no god but God alone who has no partner, and that Muḥammad is His servant and His Messenger and the seal of His prophets and messengers, and that the religion for God is Islam and that He accepts no other religion or is satisfied by any other, and that whoever follows a religion other than Islam, it will not be accepted from him and in the other world would be among the deprived (al-khāsirûn). He is declared free of the Jewish religion in which he was and curses Iblîs the repelled (al-madhûr) who incited him to it and turned him to it.

Another document of istītāba says:

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

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

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108 This quotation of Qur’ān, 3:85 was widespread in al-Andalus during the 5th/11th century and under the Almoravids. H. Kassis sees in it evidence of Muslim fear that apostasy will occur within the community at a time of Christian military success and territorial gains: see Kassis, H. E., «Muslim revival in Spain in the fifth/eleventh century. Causes and ramifications», Der Islam, 67 (1990), 78-110.


110 Ibn Mughîth, Muqāfi’, 349-50, n.° 65. Al-Jaẓîrî records a similar one (Maqsad, 425), in which al-Shaytân is given more protagonism: he seduced the apostate and led him astray, until God brought the apostate back to the right path and made him repent, saying that there is no god but Him the Powerful and the Wise, that Muhammad is His servant and Messenger and that the religion of God is Islam, and that he who seeks another religion, it will not be accepted from him and in the other world he would be among the khāsirûn.

111 See on the former Fierro, Heterodoxia, 168, and on the latter note 49.
In the case of a scholar accused of heresy, the inclusion of his name in a biographical dictionary without mentioning any accusation or deviation could be taken as evidence that his memory was vindicated: this is the case of Sufis like Ibn al-`Arif or Ibn Barrajan. Muslim biographical dictionaries of scholars and others might show a tendency towards inclusion more than towards exclusion. The doctrine considered «heretical» could be described but without giving the name of its holder. If the accusation were mentioned, the words or deeds that led to it could be explained away as being those of an ignorant or drunk person, of someone who was just joking (case of the blasphemy pronounced by the nephew of `Ajab), of someone angered or infuriated (case of the young Muslims who apostasized in Sicily) or of a mad person.

During the 5th/11th century there was in al-Andalus a current of religious scepticism and relativism that led to the doctrine of the «equivalence of proofs» (takāfu' al-adilla), according to which there was no way to prove the existence of God and of prophecy, or to prove which, if any, religion contained the truth. The Jewish doctor Ibn al-Qarrad, when invited by Ibn Ḥazm to convert,

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112 See on them Fierro, «Opposition to Sufism», 184-197.
114 See Ibn Rushd al-Jadd, Bayān, XVI, 406 where the name of someone holding a suspected view in the issue of God’s attributes, is not mentioned. Hallaq has pointed that «the practice of omitting names was of particular significance and had an important function, for the fatwā was not merely an ephemeral legal opinion produced for a specific occasion or purpose but was also an authoritative statement of the law considered to transcend the individual case and its mundane reality» (Authority, continuity and change in Islamic law, 176). However, some Andalusī ijtihādī on heresy and blasphemy preserve the name of the accused, which might be an attempt to avoid transcending the individual case.
116 See Fierro, Heterodoxia, 58.
118 The connection between heresy and madness has been briefly explored by Dols, M. W., Majnūn: the madman in Medieval Islamic Society, Oxford, 1992, 412-3, 450-1 and Capezzzone, L., «La funzione iconica della malattia nella rappresentazione islamica dell’ eretico», Annali di Ca` Foscari XXXV/3 (1996), 425-32. Persecution could engender madness as happened in the case of
answered that to change religion was a mockery (*al-intiqāl fī l-milāl talaʿūb*). One of the effects of his scepticism can be seen in the following case: when Toledo was conquered by the Christians, a Muslim scholar converted to Christianity saying that the God of both religions was the same and therefore he had no qualms about his conversion or apostasy. For religious sceptics or relativists, religious differences were of no importance.

Finally, the followers of a new doctrine would feel that there was no need for them to try not to be excluded from a community to which they felt no longer belonging. This must have been the case with the followers of the Ṣūfī Ibn Qasî, who called themselves *ghurabāʾ*, «strangers», making reference to the ḥadīth that says «Islam started by being stranger and it will again be stranger» (*badaʿa l-islām gharīban wa-sa-yaʿūd gharīban kamā badaʿa*). Many are the interpretations of this ḥadīth, but one of them could be that, in the same way that at the beginning Muslims were considered to be strangers, so renewal must come from people who will be considered «strangers» or deviants by their contemporaries, although they are the true Muslims.

**Conclusions**

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

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Muhammad b. ‘Alī b. Khalaf al-Tujibi, who as a Mālāki was under pressure on the part of the Almohad caliph al-Mansūr: see Benouis, «Les savants mis à l’épreuve», 332, n.° 16.


120 See Fierro, «Religión», in vol. VIII/1 of *Historia de España*, 480.


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

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

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

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

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123 The qādī did not act preventively, as did the police officer (sâhib al-shurta) and he was not entitled to pursue a case ex officio without the necessary legal evidence or personal knowledge: see Müller, Ch., «Judging with God’s law on earth: judicial powers of the qādī l-jamā’a of Córdoba in the fifth/eleventh century», Islamic Law and Society 7 (2000), 159-186, 166 and 163.
with a shaykh in an audience before the a'yân. This crossing of the procedures of the trial before a qâdÎ with the debate among scholars raised inevitable ambiguities... Although many involved in such events were qâdîs, the «suppression» of heresy did not take the form of an official trial... When we encounter fatwâs and debates dealing with the struggle to define truth, these were objects and instruments of political competition and not formal mechanisms or procedures. When the ruler or governor took part in these struggles, it was usually at the instigation of an outside group; and in any case his interest was usually in maintaining a balance between social peace and the satisfaction of the scholarly factions that supported him... 124

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

There is no clear evidence for the presence in al-Andalus of heretics «grand style» such as Ibn al-Râwandî, that is, enemies of the Islamic creed. 125 There were, of course, rationalists who in many cases were not persecuted at all, 126 probably because they were not anti-religious. As Kraemer has shown, there are some circumstances wherein radical views can be propounded with impunity, but they might also arise the repressive apparatus of the state to action; active pursuit and suppression of zândâqa was often contemporaneous with heightened activity of heretical revolutionary movements. 127 In al-Andalus, persecution of heretics and blasphemers was historically associated with the threat of the Fatimids, with Christian military success and with the fear of extreme Sufism.

124 Knowledge and social practice, 174.
125 See Stroumsa, Freethinkers of Medieval Islam, chapter 2.
127 Kraemer, «Heresy versus the state», 175.
Persecution and punishment could be avoided by dissimulation of one’s beliefs (taqiyya), a mechanism particularly developed by the philosophers and the Shi’ites. Religious relativism could also be of help when pressure was put on conversion, and this applied especially to members of other religions. The followers of a new doctrine would feel that there was no need for them to try not to be excluded from a community to which they felt not belonging anymore, as seems to have been the case of Ibn Qasī’s followers.

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

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

In the case of a trial having taken place, one way to avoid punishment was to escape and to go into hiding, hoping for pardon. During the trial the witnesses might be challenged or insistence might be put on the fact that to prove heresy is not easy. The fatâwâ on the subject of innovators and innovations reveal the reluctance of the fuqahâ’ to commit themselves to an uncompromising attitude on a matter so elusive and difficult to define. The Andalusî Ibn Sahl (d. 486/1093) has preserved in his collection of nawâzîl entitled al-Aḥkâm al-kubrâ the answers given to the question of the difference between the innovators (ahl al-bida’) and grave sinners (ahl al-kabâ’ir) or whether innovators should be declared infidels. Almost all the answers indicate the deep dislike of dealing with such a polemical issue on which there were so many different opinions both within the Màlikî school itself and outside it. The final statement of the jurists consulted is generally that the destiny of both groups depended upon the will of God.128

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

RESUMEN

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