NOTARIES AND THEIR FORMULAS: THE LEGACIES FROM THE UNIVERSITY LIBRARY OF GRANADA

Amalia Zomeño

The archives of Granada preserve an important number of Arabic documents written on paper and most of which are datable to the last quarter of the fifteenth century. It is still not clear why in Granada, and not in other parts of al-Andalus, so many Arabic documents are preserved. My main hypothesis is that the Christians kept them after the conquest of Granada by the Catholic Monarchs in 1492 because they were proof of the ownership of the new lands that they were acquiring.

The larger and most accessible collection is the one preserved in the Fondo Antiguo of the University Library of Granada (Biblioteca Universitaria de Granada = BUG). This collection preserves 160 Arabic documents among which there are an important number of transfers of real estate property, both in the rural and urban context. In fact, the majority of the legal issues are sale contracts (bay’) (52 documents), partitions of inheritance (qisma) (20 documents) and legacies (wasiya) (13 documents). Both the sales and the partitions of inheritance were already edited and well studied by L. Seco de Lucena in the Introducción of his main work. However, the number of legacies that he edited was smaller and therefore, his study of this legal subject is still limited.

Therefore, the main aim of this paper is to provide an edition and translation of three of these unpublished legacies. My intention is to

---

1 I would like to thank Ángel Ocón Pérez de Óbanos for granting me access to the Arabic documents from the Fondo Antiguo in the University Library of Granada. This work is part of the research project directed by C. Álvarez de Morales and financed by the Ministerio de Ciencia y Tecnología (Spain).
3 On this discussion, see Chamberlain 1994 and Fierro 2001.
6 He only edited four legacies, see Seco de Lucena 1961: nos. 7 (with two legacies), 50 and 87. Only no. 87 is found in the BUG, while I still have not seen the originals of the other three.
study the formulas used by the notary, both comparing them with notarial manuals, which suggest the wording to be used in such documents, and with other unpublished legacies of the collection. This kind of study helps in our understanding of the work of the notaries in fifteenth-century Granada as well as the application of Islamic law in the transmission of private property.

On the notaries of Granada in the fifteenth century

If we take into account the words of Ibn al-Khaṭīb (d. 776/1375), we have to conclude that the notaries in the Naṣrid Kingdom of Granada did not have a good reputation. They had two judicial functions: the writing of documents (iḥkitāb or kītbā) and witnessing (ṣahāda). Therefore, they were not only the writers or scribes of the documents, but also witnesses for the correct fulfilling of the legal transactions reflected in them. The kītbā function was fulfilled in the markets, where the notaries had shops and provided the service of drafting private contracts. The main criticism levelled by Ibn al-Khaṭīb against the notaries was that they did not clearly separate the two functions, and it was not always very clear for which one they were asking to be paid, as we should always keep in mind that Islamic law forbids being paid for being a witness.

The documents that I present here are products of these notaries’ daily work. Apart from being eager to receive a good salary, according to Ibn al-Khaṭīb, they were highly specialized jurists trained to write down the transactions according to the principles and rules of Islamic law. In this sense, their job was to make sure that these transactions were legally valid. Apart from the documents they produced, the most important sources for studying the work of the notaries are their own manuals. These manuals were especially well developed in al-Andalus and were used also in the Naṣrid period. By the end of the fifteenth century, the

---

7 I am currently finishing an edition of all the legacies of the BUG.
8 See Turki 1969.
10 See Turki 1969.