Book Reviews

Maribel Fierro and John Tolan (eds.)

The Legal Status of Ḑimmī-s in the Islamic West (Second/Eighth–Ninth/Fifteenth Centuries). Religion and Law in Medieval Christian and Muslim Societies, 1.


This collective volume originated in a series of conferences held in March 2011 at the Casa de Velázquez in Madrid, as part of a collaboration between the RELMIN project (“The Legal Status of Religious Minorities in the Euro-Mediterranean World, Fifth–Fifteenth Centuries”) headed by John Tolan, and the KOHEPOCU project (“Knowledge, Heresy, and Political Culture in the Islamic West, Eighth–Fifteenth Centuries”), headed by Maribel Fierro, both projects being funded separately by the European Research Council (ERC) with an Advanced Research Grant (ARG).

Although, as Fierro points out in the introduction, the study of Islamic law in recent decades has been one of the fields most cultivated by Arabists, this is the first book devoted specifically to the legal status of Dhimmī-s in the Islamic West. Furthermore, on reading it, the importance of legal texts when studying interfaith relations becomes clear.

The book is divided into five parts with a total of seventeen contributions written in English, French, and Spanish. The sections are devoted to the following topics: I. Legal views on Dhimmī-s; II. The early period: submission and adaptation; III. Exploring legal casuistry; IV. Going to court; and V. The non-Muslims’ sources; in addition to the Sources, Bibliography, and Index.

1. Legal Views on Dhimmī-s. In this section there are two papers: one by Christian Müller, “Non-Muslims as Part of Islamic Law: Juridical Casuistry in a Fifth/Eleventh Century Law Manual,” and another by Mohamed Chérif, “Encore sur le statut des ḏimmī-s sous les Almohades.” The former is a long contribution based on the concise manual of Mālikī law, Al-Kāfī fī fiqh ahl al-Madīna, by the jurist from Lisbon and Santarem, ʿAbd al-Barr al-Namarī al-Andalusī (d. 463/1071), in which he summarised the most pertinent legal rules of the Mālikī school. Müller searches for all the references where religious affiliation
is specified as part of the legal rulings. This search through the terminology (Dhimmi, kāfir, naṣrānī, Yahūdī) is necessary because, as the author points out and one can see in several other papers in this volume (Aillet, 177; Farid Buchiba, 218, n. 20), “The dhimmī-cases” were integrated into legal reasoning and not separated in a single chapter on “how non-Muslims have to behave and how they are to be treated” (25, 28). Cherif’s paper focuses on the controversial issue of the status of Jews and Christians under Almohad rule and, in line with other contributions in recent years, it seeks to provide a new reading of the Almohad state’s intended anti-dhimmī policy. It reviews the different accounts referring mainly to the forced conversion of Jews, concluding that, with some exceptions, the Almohad policy towards religious minorities and Christian Kingdoms was no different from that practiced by other Islamic states. Nonetheless, it considers that this is an open issue, since the information provided by the sources that we have so far is contradictory and therefore inconclusive.

II. The Early Period: Submission and Adaptation. The second section includes six papers, and is the longest. The first two papers deal with taxation of the dhimmī-s. Alfonso Carmona in his “Doctrina sobre la ġizya en el Occidente islámico” (“Doctrine on the ġizya in the Islamic West”) shows how, during the first century of the history of Islam, the tax treatment given to ahl al-ḏimma was relatively varied and even differed from the one that became canonical, as demonstrated by an analysis of the early pacts. It is interesting in the information it provides on changes in tax terminology, the type of tax, and who had to pay it, according to several law schools and authors. Anniliese Nef’s contribution, “Le statut des dhimmī-s dans la Sicile aghlabide (212/827–297/910)” (“The Status of the Dhimmī-s in Aghlabid Sicily”), highlights the particularities of the conquest of Sicily and hypothesizes about fiscal continuity between Islamic domination and the Byzantine era. It also emphasizes, in line with the previous paper, that classical tax terminology—ġizya, ġharāj—is not as clear as it may seem at first. The following two papers focus on matters pertaining to the dhimmī-s’ places of worship. Alejandro García Sanjuán in “La formación de la doctrina legal mālikí sobre lugares de culto de los dhimmīes” (“The Formation of Mālikī Legal Doctrine on dhimmī-s’ Places of Worship”) begins by summarizing the historiographical debate on Pre-Romanesque architecture in the Iberian Peninsula and the role that Islamic law had on it. It then presents the various doctrines about building non-Muslim temples and argues that there are three tendencies: a prohibitive one, represented by Omar’s pact; a restrictive one in the tradition of Ibn ʿAbbās; and one he calls “demolitionist” (demolicionista) (145). In the third part, he compares different Mālikī traditions regarding the subject, given the hegemony that this school held over al-Andalus. For his part, Jean-Pierre Molénat deals with a particular case: “La fatwa sur la