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# Converting the Land: Property, Legal Knowledge, and Documentary Practices in Toledo and the Ebro Valley, 1085–c. 1200 CE

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## Abstract

This article examines the drafting of land contracts and the evolution of local property law in key regional centers of power during the transition from Islamic to Christian rule in eleventh- and twelfth-century Iberia. Through the analysis of a range of Arabic and Latin property land sales preserved in the ecclesiastical archives of Toledo and the Ebro valley, the following study looks for signs of potential legal and documentary diffusion taking place as a result of the Christian conquests of the Middle and Upper Marches of al-Andalus. The paper explores the relationship between property and its transfer, on the one hand, and the emerging post-conquest documentary cultures, on the other. It studies borrowings between Latin and Arabic land documents, some of which can be associated with Andalusí property and contract law. The article links this transfer of knowledge to the legal and economic interests of the religious institutions that preserved the Arabic documents, highlighting how new dioceses and monasteries reclaimed the rights and benefits associated with former mosques. Such findings are framed as part of the active preservation and engagement of local property knowledge and Islamicate documentary practices, and their recycling for the post-conquest management and reorganization of the land.

## Keywords

property law – Arabic documents – ecclesiastical archives – mosque-cathedrals – Reconquista – Toledo – Ebro valley

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In the month of Ramaḍān 475 – February 1083, according to the Christian calendar – a Muslim woman named Jamīla bt. Faraj, wife of a builder nicknamed al-Balyūshī, agreed to sell an orchard (*karm*) near the Tagus River to a local Jew, Abū Ishāq b. Naḥamiyyash.<sup>1</sup> The estate of Qūjwāl or Cochuelo was located in the village (*qarya*) of Jalankash, later known as Zalencas, in the hinterland of Toledo. The sale was recorded following the standard procedure common in Western Islamic traditions of *bayʿ*, meaning the purchase and sale of properties, and in concordance with the juridical doctrines that regulated private transactions in the Maghreb and al-Andalus. In other words, this was an ordinary sale, part and parcel of the economic activity of the thriving conurbation of Toledo, capital of its own *tāʿifa* “state.”<sup>2</sup>

Jamīla and Abū Ishāq were witnessing the last days of Islamic rule in the city. The authority over the city of Yaḥyā al-Qādir, the last of member of the Banū Dhū al-Nūn dynasty to rule over Toledo, would come to an end in Muḥarram 478/May 1085. The lives of Toledo’s city-dwellers before the Christian conquest remain largely indiscernible beyond the chronicles, except

1 The following abbreviations are used: Antoni Virigili, ed., *Diplomatari de la catedral de Tortosa (1062–1193)* (Barcelona: Fundació Noguera, 1997), hereafter “ACTort”; Jacinto Bosch Vilá, ed., “Los documentos árabes de la Catedral de Huesca,” *Revista del Instituto Egipcio de Estudios Islámicos* 5 (1957): 1–48, hereafter Hue-Ar; Ángel González Palencia, ed., *Los mozarabes de Toledo en los siglos XII y XIII*, 3 vols. (Madrid: Instituto Valencia de Don Juan, 1929–31), hereafter Tol-Ar; Francisco J. Hernández, *Los cartularios de Toledo. Catálogo documental* (Madrid: Fundación Ramón Areces, 1985), hereafter Tol-Lat; Mercedes García-Arenal, trans. and ed., “Documentos árabes de Tudela y Tarazona,” *Al-Qanṭara* 3 (1982): 27–73, hereafter Tud-Ar; Francisco Fuentes, *Catálogo de los Archivos Eclesiásticos de Tudela* (Tudela: Institución Príncipe de Viana, 1944), hereafter Tud-Lat; Ramón García de Linares, ed., “Escrituras árabes pertenecientes al Archivo de Nuestra Señora del Pilar,” in *Homenaje á D. Francisco Codera en su jubilación del profesorado: estudios de erudición oriental*, ed. Eduardo de Saavedra (Zaragoza: Mariano Escar, 1904), 171–97, hereafter Zar-Ar; Luis Rubio, ed., *Los documentos del Pilar: Siglo XII* (Zaragoza: Institución Fernando el Católico, 1971), hereafter Zar-Lat. Numerated references that follow these abbreviations signal the document number, not the pagination.

2 Tol-Ar 1. Madrid, Archivo Histórico Nacional, hereafter “AHN”. AHN, Clero, Carpeta (hereafter “Car”) 3033, MS 1. Rocío Daga Portillo, ed., *Arabic Papyrology Database* (P.Mozarab. 1, accessed November 16, 2022), [https://www.apd.gwi.uni-muenchen.de/apd/show2.jsp?papname=Gonzalez\\_Mozarab\\_0010&line=1](https://www.apd.gwi.uni-muenchen.de/apd/show2.jsp?papname=Gonzalez_Mozarab_0010&line=1). For Islamic Toledo and its transition to Christian rule, Eduardo Manzano Moreno, *La frontera de al-Andalus en la época de los omeyas* (Madrid: CSIC, 1991), 163–84 and 261–310; Pierre Guichard and Bruna Soravia, *Los reinos de taifas. Fragmentación política y esplendor cultural* (Málaga: Editorial Sarriá, 2006), 136–40; David J. Wasserstein, *The Rise and Fall of the Party-Kings: Politics and Society in Islamic Spain, 1002–1086* (Princeton: Princeton University Press, 1985), 96, 253–6, and *passim*; Hugh Kennedy, *Muslim Spain and Portugal: A Political History of Al-Andalus* (London: Palgrave Macmillan, 1996), 130–49, 189–95, 266–72.

for this one purchase-sale agreement. Yet the uniqueness of this ordinary document resides in its context as much as its content. The purchase-sale contract was deposited soon after the handover of the city to Alfonso VI of León-Castile (r. 1065–1109) in the archive of the cathedral of Toledo, established over the former congregational mosque (*jāmi'*) of the city. Abū Ishāq's purchase is the earliest written document of the cathedral archive, making it unique in its telling of Toledo's last days as an Islamic city. At the same time, through its conversation with documents produced after Alfonso VI's arrival, this source allows us to understand the documentary transition that took place in the early years of Christian rule.

During the following century, approximately four hundred Arabic-language legal documents would be deposited in the ecclesiastical archives of Toledo, stuffed in boxes alongside hundreds of Latin and Romance charters. These all pertained directly or indirectly to the property interests and investments of the Toledan cathedral and other religious institutions, such as the Cistercian Monastery of San Clemente, that were economically entangled with the Arabized Christian population and administration of the city.<sup>3</sup> The Arabic records of the so-called "Mozarabs" of Toledo are unmatched in Iberia in their quantity and craft, but they are not the only ones preserved. Further east, a

3 Tol-Lat. Hernández has identified 534 private and royal Latin and Romance documents prior to the fourteenth century among the preserved charters and cartularies. The documents of the Cathedral of Toledo both Latin and Arabic, along with the Arabic documents of the Toledan Monastery of St Clement, are split between the AHN and the Archivo Capitular of Toledo Cathedral. Hernández indexed the AHN and Cathedral Latin and Castilian documents and linked them to the Arabic charters (Tol-Lat.). The Arabic documents were edited and indexed in the 1930s by Ángel González Palencia (Tol-Ar). This includes the funds from the Cathedral of Toledo (AHN, Clero, Car. 3033–69) and from the Monastery of San Salvador (AHN, Clero, Car. 3000–14). This article follows the standard numeration of Tol-Ar when using these two archives, except when specified. González Palencia's edition contains significant transcription errors, highlighted in part by Rocío Daga Portillo's editions of sample documents for the Arabic Papyrology Database, e.g. Daga Portillo, ed., *The Arabic Papyrology Database* ("Markup of document *P.Mozarab. 1 = (descr.) P.EscriturasMoz.Tol. 1* and description of subtype *īstarā'*," accessed November 16, 2022), <https://www.apd.gwi.uni-muenchen.de/apd/text/layoutdetails.jsp?laid=4200&stfid=41&ed=rdp>. González Palencia also missed a few documents, some of which have been published since: Ignacio Ferrando, ed., "Testamento de compraventa (años 1214 y 1215): Dos documentos árabes de los mozárabes de Toledo," *Collectanea Christiana Orientalia* 4 (2007): 41–54; Ignacio Ferrando, ed., "Donación en Totánés (Toledo), año 1271 un documento árabe de los mozárabes de Toledo," *Al-Andalus Maghreb: Estudios árabes e islámicos* 14 (2007): 39–49; Darío Cabanelas Rodríguez, ed., "Un documento de los mozárabes de Toledo (Siglo XIII)," *Awraq jadida* 7–8 (1984–5): 7–15. At least two documents are still housed in the Archivo del Monasterio de San Clemente. Ignacio Ferrando, ed., "Dos nuevos documentos mozárabes de Toledo (años 1234 y 1250)," *Al-Andalus Maghreb: Estudios árabes e islámicos* 7 (1999): 83–100.

handful of similar twelfth-century Arabic documents are found alongside the majority Latinate charters produced in the aftermath of the Aragonese and Catalan conquests of the Upper March of al-Andalus, situated on the banks of the River Ebro (achieved, broadly speaking, between 1117 and 1150). These include Arabic and Latin-Arabic bilingual purchase-sale charters preserved in the Aragonese churches of Zaragoza, Huesca, and further north up the Ebro valley, in the Navarrese town of Tudela.<sup>4</sup>

These well-known – and increasingly well-studied – sources provide us unique windows into the Islamicate documentary practices of Christian Iberia.<sup>5</sup> However, they are habitually isolated by scholars from the Latin charters with which they were stored after the conquests. These Arabic private deeds are systematically kept out of most cathedral and monastic edited *regesta*, and often are not even included in their inventories. Instead, the Arabic documents have been indexed and edited first and foremost by Arabists and scholars of al-Andalus in standalone publications. Under the weight of these nineteenth- and twentieth-century editions and translations, scholarship has tended to treat these documents as peculiar anomalies within the wider histories of these ecclesiastical archives. González Palencia's deeply ideological interventions in the transcriptions of Toledo's Arabic documents made it particularly difficult to disentangle the Arabic documents from the Mozarabic community of Toledo, and to connect them to the Latin and Romance documents kept in the same archives.<sup>6</sup> Consequently, sources such as the sale of Zalencas are

4 For a list of all extant Arabic documents from the Ebro valley, María Jesús Viguera Molins, "Documentos mudéjares aragoneses," *Quaderni di Studi Arabi* 5–6 (1987–8): 786–90; María Jesús Viguera Molins, "Les mudéjars et leurs documents écrits en arabe," *Revue du monde musulman et de la Méditerranée* 63–4 (1992): 155–63.

5 For instance, the excellent study and edition by Teresa Witcombe, "Maurice and the Mozarabic Charter: A Cross-Cultural Transaction in Early Thirteenth-Century Toledo," *Journal of Medieval Iberian Studies* 10 (2018): 234–56. See also, *inter alia*, Yasmine Beale-Rivaya, "The Written Record as Witness: Language Shift from Arabic to Romance in the Documents of the Mozarabs of Toledo in the Twelfth and Thirteenth Centuries," *La corónica* 40 (2012): 27–50; Beale-Rivaya, "Ethnic and Linguistic pluralisms in the Arabic Language Documents of the Cathedral of Huesca in Aragón: A Comparative Analysis," in *Revisiting Convivencia in Medieval and Early Modern Iberia*, ed. Connie Scarborough (Newark: Juan de La Cuesta, 2015), 387–403; and Helen Flatley, *Ways of Belonging: The Mozarabs of Toledo and Inter-Religious Interactions in Medieval Iberia* (DPhil dissertation, University of Oxford, forthcoming).

6 As highlighted in Yasmine Beale-Rivaya, "Shared Legal Spaces in the Arabic Language Notarial Documents of Toledo," in *A Companion to Medieval Toledo: Reconsidering the Canons*, ed. Yasmine Beale-Rivaya and Jason Busic (Leiden: Brill, 2018), 221–37. González Palencia was a student of Miguel Asín Palacios writing in the national Catholic tradition, before and after

generally underexploited as a resource for the wider study of the Christian societies and polities that replaced Islamic rule.

The following article engages in a broad comparative analysis of the ecclesiastical archives that stored Arabic documents along with Latin materials between 1085 and 1200. The first section provides an overview of the features of the collections of Arabic sources found in Toledo and the Ebro valley. The article then appraises how these documents worked alongside Latin charters in three contexts that often are treated separately: ecclesiastical, royal, and private. In the second section, the article explains how Arabic deeds worked as part of the foundational endowment and patrimonial development of the religious houses that have since stored them. Third, the article then explores the fiscal implications of these documents for those same religious institutions. Fourth, the piece then situates the Arabic grants in relation to royal interests during the incorporation of these spaces into the Castilian, Aragonese, and Catalan realms. Last, but not least, the article describes the interaction between documents and the wider context of oral transactions that resulted from the conquests.

In using this comparative approach, the article seeks to address one of the foremost and unresolved documentary paradoxes of twelfth-century Iberia: whereas in Toledo an abundant Arabic documentation survives with rare allusions to Muslims, in the Ebro valley we find Muslims engaging in property transactions with some regularity in Latin records. At the same time, however, in the Ebro valley there are only fragmentary examples of the use of Arabic in such documents, certainly never reaching the documentary density seen in Toledo. Owing to this imbalance, studies of the Arabic documents have, until now, focused on what the charters can tell us about the social, ethno-religious composition of either Toledo or the Ebro valley in the twelfth century. In Toledo, historical debate has centered on the sudden disappearance of the Muslim communities after 1085 and their replacement by the Mozarabs. The absence of clear-cut references to Muslims – meaning the Arabic names of buyers and sellers, followed by the particle “al-muslim” – in Toledan charters between Abū Ishāq and Jamīla’s contract and the 1160s has stirred much speculation. Évariste Lévi-Provençal famously brushed over the nonappearance of Muslims in over three hundred Arabic and two hundred Latin twelfth-century documents, describing Toledo’s Arabized communities as “Moriscos”, many of whom eventually returned to Islam.<sup>7</sup> This theory was later discredited by Pierre

1936. James T. Monroe, *Islam and the Arabs in Spanish Scholarship (16th Century to the Present)* (Leiden: Brill, 1971), 196–220.

7 Évariste Lévi-Provençal, “Alphonse VI et la prise de Toledé (1085),” *Hesperis* 12 (1931): 33–49.

Guichard and, more recently, by Jean-Pierre Molénat, who has highlighted both the social resilience of the Mozarabs, and the distinctively Christian character of many of the Arabic documents of Toledo. For Molénat, the absence of Muslims in the records could be a result of the mass emigration of these inhabitants during the early decades of Christian rule, particularly in the face of the Almoravid military onslaught against the city between 1086 and 1111.<sup>8</sup>

Some historians have since begun to argue that the documentary absences may be compatible with the survival of a Muslim minority who chose to remain in Toledo and its hinterland for economic reasons, as Brian Catlos has suggested, and many of whom perhaps converted to Christianity for convenience.<sup>9</sup> Catlos has also postulated similar findings in the context of the Ebro valley, where analysis had traditionally focused on the extent to which there was a displacement of the autochthonous Muslim population and replacement by Christian conquerors and settlers.<sup>10</sup> For Carlos Laliena, for instance, the protracted military incursions and processes of attrition by the Aragonese led to the “denaturalization” of Islamic societies in the years leading up to the twelfth-century take-overs.<sup>11</sup> Despite such theories, Muslims under Christian

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- 8 Pierre Guichard, *Al-Ándalus: Estructura antropológica de una sociedad islámica en Occidente* (Barcelona: Barral, 1976), 35 and 276–81; Jean-Pierre Molénat, “Mudéjars et mozarabes à Tolède du XII<sup>e</sup> au XV<sup>e</sup> s.,” *Révue du monde musulman et de la Méditerranée* 63–4 (1992): 143–53; Jean-Pierre Molénat, “Tolède fin XI<sup>e</sup>–début XII<sup>e</sup> siècle. Le problème de la permanence ou de l’émigration des musulmans,” in *De Toledo a Huesca: sociedades medievales en transición a finales del siglo XI, 1080–1100*, ed. Carlos Laliena Corbera and Juan Utrilla Utrilla (Zaragoza: Institución Fernando el Católico, 1998), 101–11. *c.f.* Guichard, *Al-Ándalus*, 33–37; and Reyna Pastor de Togneri, “Problèmes d’assimilation d’une minorité: Les Mozarabes de Tolède (de 1085 à la fin du XIII<sup>e</sup> siècle),” *Annales: Histoire, Sciences Sociales* 25 (1970): 351–90.
- 9 Brian Catlos, *Muslims of Medieval Latin Christendom, c.1050–1614* (Cambridge: Cambridge University Press, 2014), 22–3; Adrián Olstein, *La era mozárabe: Los mozárabes de Toledo (siglos XII y XIII) en la historiografía, las fuentes y la historia* (Salamanca: Universidad de Salamanca, 2006), 78.
- 10 Josep Torró, “Pour en finir avec la ‘Reconquête’: L’occupation chrétienne d’al-Andalus, la soumission et la disparition des populations musulmanes (XII<sup>e</sup>–XIII<sup>e</sup> siècle),” *Cahiers d’histoire: Revue d’histoire critique*, 78 (2000): 79–97; and Antoni Virgili, *Ad detrimentum Yspanie: la conquesta de Turtusa i la formació feudal (1148–1200)* (Barcelona: Universitat Autònoma de Barcelona, 2001). These follow closely from Sánchez Albornoz’s theories on *despoblación* and *repoblación*. For a similar perspective in the context of the thirteenth century, Enric Guinot Rodríguez, “La construcción de una sociedad feudal: la repoblación del Reino de Valencia en el siglo XIII,” in *La Península Ibérica en tiempos de las Navas de Tolosa*, ed. Carlos Estepa Diez and María Antonia Carmona Ruiz (Madrid: Sociedad Española de Estudios Medievales, 2014), 367–91.
- 11 Carlos Laliena, “Frontera y Estado feudal en Aragón y Cataluña durante el siglo XII,” *Journal of Medieval Iberian Studies* (2019): 19–39.

jurisdiction in Tudela, Lleida, Tortosa, or Zaragoza feature comparatively often in the preserved Latin charters. Based on this evidence, Brian Catlos notably described the patterns of “ethno-genesis”, institutional formation, and socio-economic capacity of these Muslim minorities in the twelfth and thirteenth centuries.<sup>12</sup> More recent studies, especially those by Thomas Barton, have been somewhat cautious about the extent of Muslim agency in Christian lands, instead tracing the micro-historical implications of nucleated nodes of socio-economic inter-religious contact.<sup>13</sup>

The lack of an apparent solution to this problem stems from the fact that the preserved Arabic and Latin sources – many of them purchase-sale agreements, documenting land transactions – can only partially reveal the socio-cultural composition of Muslim and Christian communities after the conquests. This was not, after all, the reason why they were stored. Instead, the function of these documents is best understood in relation to their legal and economic utility. Explaining why these Arabic private documents were produced and preserved alongside royal and ecclesiastical Latin charters in cathedral archives can provide us a more complex view of the incorporation of these lands in the immediate aftermath of the conquests. Through the example of the grants of Toledo and their comparison to similar charters from eastern Iberia, the article sheds light on the uses of these documents as part of the early Christian appropriation of the land. The following pages demonstrate how Christian settlers in both Toledo and the Ebro valley turned Islamic land regimes, and through these Islamicate documentary practices, into tools for their hegemony, and stored them in cathedral foundations as a way of protecting ecclesiastical interests in the local property “markets.”<sup>14</sup> Although the evidence attests to different conventions in the different lands, they also share common approaches to the assimilation, reimagination, and repurposing of the Andalusī past during the first century of Christian rule.

12 Brian Catlos, *The Victors and the Vanquished: Christians and Muslims of Catalonia and Aragon, 1050–1300* (Cambridge: Cambridge University Press, 2004).

13 Thomas W. Barton, “Muslims in Christian Countrysides: Reassessing *Exaricus* Tenures in Eastern Iberia,” *Medieval Encounters* 17, no. 3 (2011): 233–320.

14 These land economies or “markets” were regulated by overlapping and competing legal systems, customs, and rights. For the concept of the “*mercado imbricado de propiedad*” in the context of twelfth- and thirteenth-century Toledo, as a form of pre-capitalist modification of land, Olstein, *La era mozárabe*, 107–9.

## 1 Deeds of Sale

The land sale of Zalencas, issued in 475/1083, inaugurates the preservation of Arabic private documents in the ecclesiastical archives of Toledo – and of Christian Iberia at large. The approximately 394 Arabic documents stored across Toledo's Cathedral of Santa María and the Monastery of San Clemente during the twelfth century confirms the significant weight of Arabic and Islamic contractual practices in the city. Adrián Olstein and Francisco Hernández, in seminal studies of the Arabic documentation of Toledo, have shown the importance of Arabic documents as a shared medium for economic transactions during the twelfth century. Latin, meanwhile, was used exclusively for what Olstein termed “political-legal content,” meaning royal concessions and communications with the papacy. This distinction is remarkable, for it demonstrates that Toledo only partially aligned with the established documentary practices found elsewhere in contemporary Latin Christendom.<sup>15</sup> In contrast, the archives of the Ebro valley conformed more closely to Latinate documentary practices. In eastern Iberia, Arabic charters were a small subset within the larger collection of Latin contracts used for property transactions. It is nonetheless significant that documents comparable in form and function to Toledo's are preserved in the cathedrals of Jesús Nazareno of Huesca,<sup>16</sup> Santa María of Tudela,<sup>17</sup> and the Church of El Pilar in Zaragoza.<sup>18</sup> In the case of Tudela, seven bilingual Arabic-Latin interlineated purchase-sale agreements are preserved before 1200; in Zaragoza, ten Arabic land purchases survive, as well as one Latin-Arabic interlineated property exchange. Meanwhile, in Huesca five similar Arabic deeds are found, kept alongside another seven purchase-sales executed during the thirteenth century. Involving Muslim and Mozarab vendors and sellers alike, these twenty-three grants confirm that Arabic contracts played a role, albeit a subsidiary one, in the property markets of these towns.

15 Francisco J. Hernández, “Language and Cultural Identity: The Mozarabs of Toledo,” *Boletín Burriel* 1 (1989): 29–51; Olstein, *La era mozárabe*, 61–6; Adrián Olstein, “The Arabic Origins of Romance Private Documents,” *Islam and Christian-Muslim Relations* 17 (2006): 433–43 at 438.

16 Hue-Ar.

17 Tud-Ar, which is an updated and expanded version of Julián Ribera y Tarragó and Miguel Asín y Palacios, eds., “Documentos bilingües del Archivo de la Catedral de Tudela,” *Revista de Aragón* 3 (1902): 324–27 and 406–9.

18 Zar-Ar; María José Cervera, trans. and ed., “Documento árabe de venta (Zaragoza, 1194),” *Estudios de Dialectología Norteafricana y Andalusí* 2 (1997): 83–93, hereafter “P.CerveraVenta.”



Many similar contracts have been lost due to the passage and accidents of time. In Tudela, for example, a single bilingual Arabic-Latin deed of sale is preserved in the archive of the local Hospitaller house. This source documented an exchange with two local Muslims who had also appeared in the Latin-Arabic transactions kept a few doors down by the cathedral canons. The episode suggests both that these documents were habitually used by all religious institutions, and that multi-lateral economic exchanges existed among the different faith groups of Tudela. Some of the recorded transactions also transcended the jurisdiction of the churches that would eventually house these contracts. This impression is confirmed by a similar bilingual land sale from the nearby abbey of Veruela, near Tarazona, and another from the distant abbey of Santo Domingo de Silos.<sup>19</sup> These instances also imply that cathedrals were not the only institutions that engaged in these documentary activities – as indeed confirmed by Toledo’s Arabic charter collection belonging to the Monastery of San Clemente.<sup>20</sup> Nor did these documents necessarily involve Arabized Christians and Muslims, as confirmed by the single bilingual Latin and Judaeo-Arabic purchase-sale in the collections of the Cathedral of Santa María of Tortosa. This deed, sanctioning a transaction between a Jew, Hayyan de Azuz, and a Catalan landowner, follows the layout and language of an Arabic land purchase rather than Hebrew deeds of sale. Despite the latter being widespread in tenth and eleventh-century Catalonia, Hayyan of Tortosa’s document is closer to similar Judaeo-Arabic sales found at Huesca Cathedral.<sup>21</sup>

### 1.1 *The formal composition*

In spite of the contrasting utilities and numbers of preserved documents, these two pools of evidence have significant formal correspondences. An overwhelming majority of the stored Arabic documents of both the Ebro valley and Toledo followed the conventional diplomatic structure of Islamic deeds of sale. Out of a pool of 381 documents from Toledo between 1085 and 1200, at least 270 can be categorized as deeds confirming the purchase, sale, or exchange of property. Some other forty-six documents can be categorized as

19 For the single Hospitaller land exchange in Tudela, which remains unpublished, AHN, Órdenes Militares [OoMM], Car.912, ms 9. Veruela’s purchase is edited in Tud-Ar 7. For Silos’s Arabic contract, Darío Cabanelas Rodríguez, ed., “Otro documento de los mozárabes de Toledo (siglo XIII),” *Toletum* 17 (1985): 177–91.

20 As highlighted by Beale-Rivaya, “Shared Legal Spaces,” 230.

21 ACTort 160. For the Judaeo-Arabic deeds kept at Huesca Cathedral, Jacinto Bosch Vilá, trans. and ed., “Escrituras oscenses en aljamía hebraicoárabe,” in *Homenaje a Millás-Vallcrosa*, 2 vols. (Barcelona: CSIC, 1954), 1:183–214. For an overview of Hebrew-Latin bilingual deeds in Catalonia, Micha J. Perry, “A Cultural History of Bilingual Charters from Catalonia: Language and Identity,” *Jewish Quarterly Review* 111 (2021): 185–210.

witness statements (*ashhada*), most of them ratifying the receipt of a past payment or execution of an agreed transaction. Out of the purchase-sale deeds, 258 were drafted from the point of view of the buyer (*ishtarā*); only three lend agency to the seller (*bā'a*); while nine are described as land exchanges, combined with a money transfer (*āwaḍa*). In the Ebro valley, the same trends are noticeable: ten out of the nineteen preserved transactions were *ishtarā* sales, four frame transactions as *āwaḍa*, and only two as *bā'a*. This contrasts with the Latin private charters in places like Zaragoza or Tudela, where nearly all examples of purchase-sales preserved were presented from the point of view of the seller.<sup>22</sup> Crucially, this analysis confirms that the Arabic documents in these two regions were not simply copies of Latin sales, but part of a distinct and discrete documentary practice that needs to be understood on its own terms.

The Arabic purchase-sale agreements faithfully reproduced standard Islamic diplomatics, as per appropriate rules of contract law.<sup>23</sup> After the initial *basmala* invocations, the contracts commence by signalling the function of the document and stating the buyers and sellers. After that, they describe the limits (*hudūd*) of the property starting from the south. In Toledo, *hudūd* descriptions typically declared that the purchase would be enjoyed fully with its benefits and amenities, assuring the inviolability of the property rights and fiscal regimes within its terms. With some variations, this same formula is also found in Zaragoza and Huesca.<sup>24</sup> Then follows the stipulation of assurances with regards to the setting of guarantees for the execution of the transaction, the guarantors, and the price of the transaction, followed by witnessing clauses. The witnesses found in Toledo's documents tend to appear with regularity across different groups of agreements, perhaps a sign that these were families of professional or "accredited witnesses" known as *shuhūd* (sing.

22 Except for Zar-Lat 13, all Latin purchase-sale deeds kept at El Pilar between 1118 and 1150 CE are framed as sales, e.g. Zar-Lat 4, 7, 8, 14–7, 19, 23, 26–32, 34–50, etc. In Tudela, three Arabic-Latin bilingual deeds are framed as *āwaḍa* exchanges. These may have reflected the Christian *cartae cambii* common to northern Iberia in this period, although *āwaḍa* exchanges are also known and used in Islamic law. Tud-Ar 2 and 4, and AHN, OOMM, Car.912, MS 9.

23 As highlighted by Jean-Pierre Molénat, "Peut-on trouver trace de la Loi islamique dans les documents arabes chrétiens de Tolède des XII<sup>e</sup> et XIII<sup>e</sup> siècles?," *Medievalista* 20 (2016): 11, n. 27. DOI: <https://doi.org/10.4000/medievalista.1168>.

24 Tol-Ar 1: "[...] bi-jamī'i ḥuqūqihā kullihā fi dākhlilhā wa-khārijihā [...]." Zar-Ar 1: "[...] bi-manāfi'ihi wa-marāfiqihī wa-ḥaramihī wa-ḥuqūqihī kullihā al-dākhlilati fihi wa-l-khārijati [...]." The same assurances are made in Zar-Ar 2. With some variations, but essentially the same, Zar-Ar 4–5; P.CerveraVente, Hue-Ar 2. These formulae are entirely missing from the bilingual deeds of Tudela. For a comparative analysis of boundary clauses in a Mediterranean context, Alex Metcalfe, "Orientation in Three Spheres: Medieval Mediterranean Boundary Clauses in Latin, Greek and Arabic," *Transactions of the Royal Historical Society* 22 (2012): 37–55.

*shahīd*). Again, there are commonalities here with the Arabic materials from the Ebro.<sup>25</sup> The documents close with dating clauses and scribal attestations. The most discernible difference between Ebro and Toledan purchase-sale deeds is found here: while Eastern Iberian documents preserved the Hijri dating, Toledan documents switched to the Spanish Era calendar immediately after the conquest.<sup>26</sup>

## 1.2 *The Scribes*

The connections between these Arabic contracts and contemporary Islamic deeds can also be established through the material support of the former, as well as the shared contractual language in both. The preservation of deeds that antedate the Christian conquest by these ecclesiastical institutions also confirms a direct link between the cathedral contexts in which these documents are kept and the pre-conquest archives of al-Andalus. This includes Toledo's 475/1083 purchase, and a similar contract kept at El Pilar in Zaragoza, drafted in the lead-up to the Aragonese takeover of 1118. These two writs are rare examples of Andalusī legal documents preserved in their original support. We know this, because both transactions were drafted on paper, as opposed to parchment – at the time only common in al-Andalus.<sup>27</sup>

At the same time, these two grants reveal significant regional variations in the years leading up to the Christian conquests. As Umberto Bongianino has recently highlighted, the scribal hands in these two cases are markedly different: while Zaragoza's document was written in a very coarse cursive hand, the Toledan deed was written by a scribe that had some knowledge of notarial scribal conventions in al-Andalus.<sup>28</sup> This raises the question of who wrote the deeds in the first place. Unfortunately, what we know about the notaries (*waththāqūn* or *muwaththiqūn*, sing. *waththāq* or *muwaththiq*) who drafted the contracts is derived almost exclusively from the documents themselves. In

25 Molénat, "La Loi islamique dans les documents arabes," paragraphs 11–14; Rodrigo García-Velasco, "'*Alā fūr Tuṭīla*': Jews and Muslims in the Administrative Culture of Post-Conquest Tudela, c. 1118–1220," *al-Masāq* 29 (2017): 235–57 at 245–6.

26 Tol-Ar 2 (1092) already switches to Spanish Era, i.e. +thirty eight years from the Anno Domini dating. All Arabic Ebro valley charters are dated according to the Islamic calendar, and all Judaeo-Arabic documents are dated according to the Jewish calendar.

27 Paper only entered the chanceries and documentary cultures of Aragon and Castile in the thirteenth century. Robert I. Burns, *Diplomatarium of the Crusader Kingdom of Valencia. The Registered Charters of Its Conqueror, Jaime I, 1257–1276. Volume I: Introduction. Society and Documentation in Crusader Valencia* (Princeton: Princeton University Press, 1985), 151–81.

28 Umberto Bongianino, *The Manuscript Tradition of the Islamic West* (Edinburgh: Edinburgh University Press, 2022), 328–9.

Toledo, for instance, only a handful of the scribes and notaries can be identified, all from later twelfth- and thirteenth-century documents. Some of them had locative *nisbas* in their names that link them to Andalusi regions such as Murcia or Badajoz, but their religious affiliation is difficult to establish.<sup>29</sup> This suggests some movement among scribes and officials involved in these documentary exchanges. Later evidence confirms that Muslim scribes were hard to come by, and thus constituted a highly remunerated profession.<sup>30</sup> However, we cannot tell with certainty who these early twelfth-century scribes were, and how they acquired their knowledge.

The production of Arabic deeds in Christian lands could, to an extent, be linked to a wider resilience of Arabic language and Islamicate practices in these areas. It is not a coincidence that the two areas where Arabic documents were preserved were also the key regions where Arabized Christians remained; as well as the two main centres for Arabic-Latin translation and intellectual activity during the twelfth century. The case of Toledo is well known, but places such as Tudela remain understudied as nodes for this activity despite the presence of key translators such as Hermann of Carinthia and Robert of Ketton. Both of these scholars, later associated with the Toledo scriptorium, were initially found to be working in the early 1140s in the Ebro valley, perhaps to consult the lost library of the Banū Hūd.<sup>31</sup> It is also likely that the Arabic influence in these regions was encouraged by the movement of people to and from Islamic lands. For instance, following the incursion by Alfonso I of Aragon-Navarre (r. 1104–34) deep into al-Andalus during 1124, a number of Arabized Christian families (called *mustarabes*) were granted a royal charter allowing them to resettle in Tudela and the Ebro valley. These Mozarabs brought their legal culture with them – their *forum et usaticum antiquum*, as acknowledged in the grant. This plausibly also implied their Arabized documentary cultures.<sup>32</sup> In the 1150s, some of those Mozarabs moved once again from the Ebro valley back to Toledo.<sup>33</sup> Other evidence also suggests that the reduced Muslim landowning elites that remained under Christian rule controlled the enduring community roles, and were involved in the brokering of local land transfers and in the drafting of these documents.<sup>34</sup>

29 Olstein, *La era mozárabe*, 79.

30 Robert I. Burns, *Jews in the Notarial Culture: Latinate Wills in Mediterranean Spain, 1250–1350* (Berkeley: University of California Press, 1996), 33–8.

31 Charles Burnett, “The Translating Activity in Medieval Spain,” in *The Legacy of Muslim Spain*, ed. Salma Khadra Jayyusi, 2 vols. (Leiden: Brill, 1992), 2:1036–58.

32 Fortún, “Colección de ‘fueros menores’ (I),” doc. 10, pp. 291–2.

33 Tol-Lat 114.

34 García-Velasco, “*‘Alā fūr Tuṭīla*,” 243–6.

What we do know is that, based on the evidence of these Arabic contracts, *muwaththiqūn* continued to receive training in their profession long after the Christian takeover. These notaries learned their craft by copying from prior deeds; and by studying jurisprudence and the *‘ilm al-shurūṭ wa-l-wathā’iq*, the “science of contractual stipulations.” As a result, the Toledan and Ebro valley contracts share their structure with the model contracts found in the notarial formularies abundantly circulating in contemporary Islamic Iberia.<sup>35</sup> These formularies contain a range of model contracts, some of which are nearly identical to the deeds found in Christian ecclesiastical archives. We therefore see here a distinct transfer of knowledge from Islamic into Christian contexts; either through the documentary production itself, or through access by scribes to templates on which to base the drafting of new records.<sup>36</sup> In Toledo’s case, scribes of these private sales wrote their contracts following the diplomatic conventions also found in the preserved documents of the Almoravid and Almohad chanceries. This raises the likelihood of sustained links between scribes in Toledo and their counterparts in Andalusī lands long after 1085.<sup>37</sup> A sale from Huesca drafted in Dhū al-Ḥijjah 549/February-March 1155 confirms the sustained impact of Islamicate contractual traditions in the production of these deeds. The document stated that the purchaser, a woman named Jamālī

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- 35 The earliest is the *Kitāb al-wathā’iq wa-l-sijillāt* of Ibn al-‘Aṭṭār (d. 399/1009). Ibn al-‘Aṭṭār, *Formulario notarial hispano-árabe*, ed. Pedro Chalmeta and Federico Corriente (Madrid: Academia Matritense del Notariado, 1983). Ibn al-‘Aṭṭār’s formulary, written at the court of caliph Hishām II and thus the earliest-preserved example of this genre, circulated widely during the eleventh century. Notably, it was used by Aḥmad b. Muġīth al-Ṭulayṭulī (d. 459/1066), an *‘ālim* working in Toledo under the Banū Dhū al-Nūn, in his own treatise on notarial documents. Ibn Muġīth, *al-Muqni’ fi ‘ilm al-shurūṭ* (*Formulario notarial*), ed. Francisco Javier Aguirre Sádaba (Madrid: CSIC, 1994). Through the treatise by Ibn Muġīth and that of another contemporary from eastern al-Andalus, Ibn Fatūḥ al-Buntī (d. 462/1070), Ibn al-‘Aṭṭār’s *Kitāb* entered the notarial formularies of ‘Alī b. Yaḥyā al-Jazīrī (d. 575/1185), Abū al-Qāsim b. Salmūn (d. 767/1365), and Abū Ishāq al-Gharnāṭī (d. 768/1366). Ibn al-‘Aṭṭār, *Formulario notarial hispano-árabe*, xxv–xxvi.
- 36 Ibn al-‘Aṭṭār, *Formulario notarial hispano-árabe*, 106–10, for a similar, although not identical, model in the purchase-sale of lands. Ibn Muġīth, *al-Muqni’ fi ‘ilm al-shurūṭ*, 129–288, for the chapter on purchases; 129–31 for a model *ishtarā* sale of a house (*dār*) and a series of provisos depending on the conditions of the purchase; 131–33 for the *fiqh* justification of the validity of these deeds. For very similar contracts in a twelfth-century Andalusī formulary, see ‘Alī b. Yaḥyā al-Jazīrī, *Al-maqṣid al-maḥmūd fi talkhīṣ al-‘uqūd* (*Proyecto plausible de compendio de fórmulas notariales*), ed. Asunción Ferreras (Madrid: CSIC, 1998), 122–34.
- 37 Some further remarks on twelfth-century *muwaththiqūn* working in Toledo and elsewhere in al-Andalus are found in Bongianino, *The Manuscript Tradition*, 327–30. For a description of the paleography of the Maghreb and al-Andalus in this period more generally, Bongianino, *The Manuscript Tradition*, 171–277 and 295–330.

bt. Mas'ūd b. 'Abdallāh al-Anṣārī, had bought the property from her mother and installed herself as proprietor after writing said deed. The operation was not a simple sale: it was a transfer of hereditary land involving female landowners, in turn requiring a specific documentary format. To legitimize the validity of this unusual arrangement, the deed affirmed that the operation was executed under "the [appropriate conventions of] sales in Islam." In so doing, this careful wording not only sanctioned the sale but did so with reference to the notary's training in *'ilm al-shurūṭ wa-l-wathā'iq*. This example thus confirms a sustained engagement with Islamicate contractual conventions long after the Christian conquest of Huesca.<sup>38</sup>

### 1.3 *A Christian or Islamic Private Law?*

These deeds were not just superficially affected by Islamicate practices but had substantive legal implications. Both Arabic and Latin purchase-sale documents in the Ebro valley and Toledo referred to a system of property transfer that was based on an agreed offsetting liability. Property exchanges and transactions were thus understood as part of the juridical concept of *bay'*. In other words, private transactions were tied to Islamic religious doctrines, in a way that was not comparable in Christian legal systems.<sup>39</sup> In particular, these transactions set a system of pledged guarantees termed *marj al-darak* or *ḍamān al-darak* in the Arabic sales and *marjadraque* in Latin and Romance contracts. Originating from Mālikī *fiqh*, this system required the contractual obligation on the part of the seller to return the money received in a transaction if the buyer was not able to possess the purchased land. As a guarantee that the buyer would not be disturbed, the seller was formally obliged to pledge all his mobile and immobile goods. In return, the buyer would present a surety to the seller for the fulfilment of the agreement. In practice this system implied the presenting of guarantors (*ḍāminīn*, translated in Latin as *fideiussores*) by both parties in agreements to pledge their properties to ensure that the agreements were completed to the satisfaction of both parties.

*Marjadraque* was omnipresent in many of the Iberian regions seized from Islamic rule during the twelfth and thirteenth centuries. Found in Toledo and the Ebro valley, it was also widely applied in Western Islamic lands in this period. Similar guarantees were later replicated during the years after

38 Hue-Ar 3. "[...] nazalat manzilatahā wa-maḥal dhī al-milk fī milkihi 'alā bay' al-Islām".

39 Olstein, *La era mozárabe*, 74. For a wider discussion of *bay'* in an Islamic context, Jeanette Wakin, *The Function of Documents in Islamic Law: The Chapters on Sales from Ṭaḥāwī's Kitāb Al-Shurūṭ Al-Kabīr* (Albany: State University of New York Press, 1972), 5.

the conquest of Seville and in Naşrid Granada.<sup>40</sup> In contrast, pledges of this kind are not found in any of the charter collections of Christian Iberian lands which had not been formerly under Islamic rule. *Marjadraque* was thus clearly a foreign legal concept to the Latin realms of north Iberia. In this sense, *marjadraque* can be simultaneously interpreted as compatible with and contrary to the Visigothic legal code, the *Liber Iudiciorum*, and its prescriptions regarding the execution of property transactions. On the one hand, the use of similar sureties or pledges for the enforcement or guarantee of outcomes was common in northern Christian charters during the tenth and eleventh centuries. On the other hand, the pledging by a guarantor of all their goods was forbidden by the surviving rules of the Visigothic code. The documents, therefore, express a divergence from the ways in which properties were recorded in Latin Christian deeds during this period in other areas of Iberia.<sup>41</sup>

This paradox is particularly significant when considering that the Arabized Christians of Toledo upheld the rules of the *Liber Iudiciorum* as their basic legal statutory framework.<sup>42</sup> Yet property law and legal practices in Christian Iberia by the beginning of the eleventh century were characterized precisely by the absence of authoritative legal precepts. Although the Visigothic code was regularly invoked in land disputes and transactions, in practice “custom” (*mos* or *consuetudo*) often took precedence.<sup>43</sup> Christians adapted the *marjadraque* in Toledo and the Ebro valley under the same notion of “customary practices”,

40 Molénat, “La Loi islamique,” paragraph 25, n. 67–9; María Luz Alonso Martín, “La compraventa en los documentos toledanos, siglos XII–XIV,” *Anuario de historia del derecho español* 49 (1979): 463–82. The same is also found in Ibn Salmūn’s notarial treatise and later Maliki scholars. P.CerveraVenta, 85, n. 12.; Pedro Cano Ávila, “Contratos de compraventa en el reino nazarí de Granada, según el Tratado notarial de Ibn Salmūn,” *Al-Qanṭara* 9 (1988): 323–51. There are instances of the inclusion of the same pledges in documents from the wider Islamic world between the eleventh and fourteenth centuries. For *damān al-darak* clauses in documents of sale in the wider Islamic world, Wakin, *The Function of Documents*, 33, 60–63, 89–91; Yūsuf Rāḡib, *Actes de vente des esclaves et d’animaux d’Égypte médiévale*, 2 vols. (Cairo: Institut Français d’Archéologie Orientale, 2002–2006), 2:93–97 and 2:109.

41 P.CerveraVenta, 88; Davies, *Windows on Justice*, 31–2, and 233; Wendy Davies, “On suretyship in tenth-century northern Iberia,” in *Scale and Scale Change: Western Europe in the First Millennium* ed. Julio Escalona and Andrew Reynolds (Turnhout: Brepols, 2011), 133–52.

42 The *fuero* of the Mozarabs of Toledo, issued c. 1101, specified that any private disputes regarding property were to be settled according to the *Liber Iudiciorum*. Alfonso García-Gallo, “Los fueros de Toledo,” *Anuario de historia del derecho español* 45 (1975): 341–488 at 459.

43 Jeffrey A. Bowman, *Shifting Landmarks: Property, Proof, and Dispute in Catalonia Around the Year 1000* (Ithaca: Cornell University Press, 2004), 33–55 and *passim*.

even if they were the application of carefully-considered juridical doctrines. Taken as part of these regions' customs, they put the system of sureties to the service of Christian hegemony. Originally, Islamic sureties were followed by invocations specifying that the agreements were protected "*alā sunnat al-Muslimīn*," meaning "under the *sunna* of the Muslims."<sup>44</sup> However, most Arabic deeds shifted from invoking Islamic law to invoking the new Christian legal regimes and *fuero* agreements granted during the surrender of these towns. Thus, in Toledo, 69% of the Arabic sales contained the clause "according to the law of the Christians" in their sales; while only one deed followed the terminology "according to the law of the Muslims." Christian law therefore incorporated Islamicate legal praxis, assimilated as part of the local customary arrangements of these settlements.<sup>45</sup>

These private deeds demonstrate the sustained use of Islamic traditions in the Christian land management in Toledo and the Ebro valley. But they also display the direct and lasting documentary effects of the Christian conquests over these local arrangements. One particularly succinct example is found in Zaragoza, where a land sale produced in Shawwāl 590/September 1194 included an adaptation of the usual Arabic formula corroborating the inviolability of the property. The purchase was to be enjoyed with all its rights associated to the land, "those attributed [to it] since long ago, and [those attributed to it] recently."<sup>46</sup> This slight modification of the typical assurances simultaneously affirmed a sense of continuity with the pre-conquest past of these properties; while also sanctioning the changes that the conquest had brought with it to land management. Such instances reveal, hidden under the formulaic language, an appreciation of the legacy of the Islamic past, and its differences with the Christian present.

## 2 Documenting Mosque-Cathedrals

The repurposing of Islamicate documentary traditions after the Christian takeover was informed in large part by practical considerations. Through the production and storage of Arabic deeds, the cathedral and church foundations protected their respective interests in the local property economies. There were three ways in which Arabic documents flowed into the cathedral archives.

44 See for instance the pre-conquest documents of Toledo (Tol-Ar 1) and El Pilar (Zar-Ar 1); and in post-conquest transactions involving Muslims, for example Zar-Ar 4, and Tud-Ar 2.

45 Olstein, *La era mozárabe*, 76.

46 P.CerveraVenta. "[...] bihā mansūbun 'ilayhā min qadīmīn wa-ḥadīthin."



First, through the acquisition of property donated by monarchs from their own estate to these religious institutions. Second, through ecclesiastical purchase of former royal lands donated to royal dependants, who eventually sold portions of the acquired lands to the cathedral via private transactions. Third, through the influx of private donations and transactions by lay inhabitants and canons of these institutions that would be eventually incorporated into the ecclesiastical endowments. In all cases, Arabic private sales were complemented by Latin royal grants, as well as private transactions recorded in Latin or Romance (in the case of Toledo). Once these different documents arrived in the cathedrals, these charters served their new owners in a fresh capacity: to protect the patrimony of the religious institutions that preserved them.

### 2.1 *The Afterlives of Two Andalusī Deeds*

Two key purchase-sale documents, which antedate the Christian conquests of Toledo and Zaragoza, lay bare the archival utility of these Arabic documents. In the case of Toledo, this was the sale by Jamila to Abū Ishāq in 475/1083. Worth 300 *mithqāls* of gold at the time of the transaction, this was a considerable purchase.<sup>47</sup> Sometime between the conquest in 1085 and the first decade of the twelfth century, the property of Abū Ishāq was acquired or seized by Alfonso VI. The Leonese king controlled this royal estate outside the city walls, and enjoyed it “with his wives Berta, Isabel, and Beatriz” before his death in Toledo during the Almoravid siege of the city in 1109. This is recorded in a preserved (Latin) royal charter from 13 March 1115, issued during the Aragonese invasion of northern Castile. Facing the loss of her kingdom, Queen Urraca I (r. 1109–26) transferred several assets in Toledo to the Leonese loyalist cathedral chapter, including some of the royal land in Zalencas, for safekeeping. It is possible that the property was formally transferred along with the documents that belonged to the estate.<sup>48</sup> This concession was then reaffirmed by Urraca’s son, Alfonso VII, on 21 November 1118, after the worst of the troubles in Castile during the Aragonese invasion had passed.<sup>49</sup>

47 The *mithqāl* was a standard unit of account in the Islamic Mediterranean. In Toledo it was equivalent to a gold *dīnār*, assimilated in Christian times as the *morabetino* or *maravedí*. Witcombe, “Maurice and the Mozarabic charter,” 237, n. 23; and Miquel Crusafont, Anna Balaguer, and Philip Grierson, *The Iberian Peninsula, Medieval European Coinage. With a Catalogue of the Coins in the Fitzwilliam Museum, Cambridge, Volume 6* (Cambridge: Cambridge University Press, 2013), 217–9, and fig. 11. A Toledan *mithqāl* of gold was worth ten silver dirhams just before the Christian conquest (as recorded in Tol-Ar 1); two decades later, the *mithqāl* had devalued to two and a sixth Almoravid gold *dīnārs* (as per Tol-Ar 7).

48 Tol-Lat 18.

49 Tol-Lat 20.

Zaragoza's Santa Maria del Pilar also preserves a purchase-sale contract similar to that of Abū Ishāq. As in Toledo, the contract was eventually deposited in El Pilar alongside three pre-conquest Latin purchase-sale documents that went as far back as 1078. None of these four documents were related to Zaragoza or El Pilar, but instead told the pre-histories of properties that were eventually acquired by canons of the basilica.<sup>50</sup> Drawn up on paper, this agreement between two local Muslims ratified the purchase of a plot of arable land (*faddān*) for grazing next to the river Ebro, in the village of Sobradriel, northeast of Zaragoza. It was drafted in the month of Dhū al-Ḥijjah 510/April–May 1117 – that is, in the months leading up to the Aragonese siege. In contrast with the Zalencas estate, this was not a particularly sizeable property. It was sold for one gold *dīnār* and four silver dirhams, according to the appropriate weight standards of Zaragoza.<sup>51</sup> Sobradriel's sale was therefore quite different to that of Zalencas. The former was a small plot for cultivation, owned by Muslims in the hinterland of the city, sold for an averagely small amount. We know nothing of the property from the Latin sources kept in the Church's archive, nor can we trace the trajectory of the documents in the same level of detail. We only know that the cathedral kept interests in this village during the twelfth century. Yet what unites these two documents is their shared archival function. Storing these charters helped to prove the ecclesiastical claims to property and fiscal rights in these newly-conquered towns.

The significance of these pre-Christian deeds in advancing the property interests of these newly-created dioceses is especially clear in the case of Zalencas. Half a century after Urraca's 1115 grant to the cathedral chapter, the canons of Santa María in Toledo began to amass land in Zalencas under ecclesiastical jurisdiction near the royal estate. In March 1164, during the minority of Alfonso VIII, the cathedral chapter bought a fourth of the rights over a vineyard in Zalencas for 27 gold maravedís.<sup>52</sup> That same year, the cathedral's Arabic documents recorded the sale of an uncultivated plot for 4 *mithqāls* of gold by Miguel Domínguez, a cathedral canon.<sup>53</sup> The piecemeal appropriation of the estate by the cathedral continued in 1175, when the Toledan canons bought a small plot for 4 *mithqāls* in Zalencas adjoining the orchard of the

50 Zar-Lat 1–3. The same practice is apparent in Toledo, where the cathedral stored copies of a single sale document of 986 CE regarding a property in Covarrubias, near Burgos. Tol-Lat 1.

51 Zar-Ar 1; for a new annotated edition of the document, see Rocío Daga Portillo, ed., *The Arabic Papyrology Database* (P.GarciaPilar 1, accessed November 16, 2022), [https://www.apd.gwi.uni-muenchen.de/apd/show2.jsp?papname=Garcia\\_Pilar\\_10&line=1](https://www.apd.gwi.uni-muenchen.de/apd/show2.jsp?papname=Garcia_Pilar_10&line=1).

52 Tol-Lat 142.

53 Tol-Ar 72.

king.<sup>54</sup> In 1181, a more substantial private sale of an orchard and a vineyard in the village was struck for 75 Alfonsine *mithqāls* (i.e. Alfonsine maravedís). The lands eventually made their way into the cathedral records.<sup>55</sup> Finally, in 1194, a Jewish family transferred a vineyard in the same village to the cathedral in return for 10 *mithqāls*.<sup>56</sup> This documentary activity recorded crucial information for the cathedral, especially as in that same year of 1194, Alfonso VIII of Castile (r. 1158–1214) listed and confirmed in an inventory all the properties transferred by royal donation to the church since the conquest. Not only did this royal inventory include the estate of Zalencas, but the document also explicitly cited Urraca's initial donation and its legitimacy. This makes it once again conceivable that the 1115 and 1118 royal charters were corroborated by Alfonso VIII's notaries alongside Abū Ishāq's original grant, before being inserted by the scribes into the inventory.<sup>57</sup> The collection of charters related to Zalencas thus worked collectively to advance the interests of the cathedral chapter in Toledo's land market. But Abū Ishāq's purchase still stood out as the original sale – older than the cathedral itself. Storing the 475/1083 document allowed the cathedral to embed itself into the institutional history of the old congregational mosque, the same physical space in which the new church was consecrated.

## 2.2 Cathedral Donations, Mosque Awqāf

In each of these conquered towns, the congregational mosques were converted into and reconsecrated as cathedrals. Starting with Toledo's rededication of the *jāmi'* mosque in the autumn of 1086, the conversion of mosques into churches became a central activity within premodern processes of Christian Iberian conquest and settlement.<sup>58</sup> With these conversions, also came the transfer

54 Tol-Ar 117.

55 Tol-Ar 154.

56 Tol-Ar 258.

57 Tol-Lat 209. Reconfirmed on 17 May 1254, as per Tol-Lat 494.

58 Matthias Maser, "Conquered Cities: Continuity and Transformation of Urban Structures in the Castilian 'Reconquista' Territories (11th–14th Centuries) – Toledo and Seville," in *The Power of Cities: The Iberian Peninsula from Late Antiquity to the Early Modern Period*, ed. Sabine Panzram (Leiden: Brill, 2019), 201–46 at 212–4; Julie A. Harris, "Mosque to Church. Conversions in the Spanish Reconquest," *Medieval Encounters* 3 (1997): 58–172; Pascal Buresi, "Les conversions d'églises et de mosquées en Espagne aux XI<sup>e</sup>–XIII<sup>e</sup> siècles," in *Religion et société urbaine au moyen âge. Études offertes à Jean-Louis Biget par ses anciens élèves*, ed. Patrick Boucheron and Jaques Chiffolleau (Paris: Publications de la Sorbonne, 2000), 333–350; Ana Echevarría Arsuaga, "La transformación del espacio islámico (siglos XI–XIII)," in *À la recherche de légitimités chrétiennes. Représentations de l'espace et du temps dans l'Espagne médiévale (IX<sup>e</sup>–XIII<sup>e</sup> siècle)*, ed. Patrick Henriët (Lyon: ENS Éditions,

of the properties linked to their former institutions, and with it, their documents. In this sense, the earliest Latin charter stored in Toledo's cathedral is its foundational royal grant from 18 December 1086, in which Alfonso VI offered several properties to the archbishop and canons as its patrimony. The transferred properties encompassed a number of settlements and possessions in Toledo's hinterland as far out as Talavera and Guadalajara, the lands that had been previously owned by two Muslim magnates, as well as all of the houses and properties previously owned by the congregational mosque of Toledo.<sup>59</sup> The cathedral's claims to jurisdiction over the mosques and their endowments south of the Guadarrama mountains – conceivably referring to mosques reconsecrated as churches – were reconfirmed once again by Alfonso VI three years later.<sup>60</sup>

The logic of the ecclesiastical archives of the Ebro valley in the early years after the conquests replicates that of Toledo. The earliest post-conquest charter at Tudela's Cathedral of Santa María was a foundational royal concession, granted in 1121, that confirmed Bishop Bernard's jurisdiction over the *lezdas* or market tolls, mills, furnaces, baths, and other taxes in Tudela. The cathedral also received all the mosques (both the buildings and their lands) and the large aristocratic estates (*almunias*) of Tudela, as well as jurisdiction over several hinterland villages, and, finally, the properties previously owned by some local Muslim magnates.<sup>61</sup> Tortosa's Cathedral of Santa María likewise received assurances from Count Ramon Berenguer IV of Barcelona (r. 1131–62), days after the capitulation of the local Muslims. The ecclesiastical estate granted by the Count of Barcelona included fiscal rights over the taxes of the Muslims living under ecclesiastical jurisdiction and over all the properties (*praedia* and *possiones*) previously associated with the "great mosque of the Saracens"

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2003), 53–77. at 60–66; Amy G. Remensnyder, "The Colonization of Sacred Architecture: The Virgin Mary, Mosques, and Temples in Medieval Spain and Early Sixteenth-Century Mexico," in *Monks and Nuns, Saints and Outcasts. Religious Expression and Social Meaning in the Middle Ages*, ed. Sharon A. Farmer and Barbara Rosenwein (Ithaca: Cornell University Press, 2000), 189–220.

59 Tol-Lat 2. "... omnes illas hereditates seu kasas et tendas quas abuit his temporibus quibus fuit mezquita maurorum do e[i et] confirmo quando est facta ecclesia christianorum." José Antonio García Luján, ed., *Privilegios reales de la Catedral de Toledo (1086–1462)*, 2 vols. (Toledo: Caja de Ahorros Provincial, 1982), 2:15–20. A summary of the donation is cited by Rodrigo Jiménez de Rada, *Historia de rebus Hispaniae, sive, Historia gothica*, ed. Juan Fernández Valverde (Turnhout: Brepols, 1987), 205, vi:23.

60 Tol-Lat 6.

61 Tud-Lat 2.

(*maior meschida sarracenorum*).<sup>62</sup> Tortosa's cathedral also kept copies of the same grant made by Ramon Berenguer IV upon the foundation of the cathedral of Lleida on 30 October 1149.<sup>63</sup>

How these agreements between monarchs and ecclesiastical foundations were brokered is left obscure in the examples cited above. Thankfully, a similar concession made in Huesca shortly after the town's conquest in 1096, detailed the heated arguments that ensued from the Aragonese takeover and the foundation of the new diocese. Preserved as part of the ecclesiastical communications of Huesca Cathedral, the charter explained how King Sancho I Ramírez (r. 1063–94) and the abbot of Montearagón had quarrelled with the bishop of Jaca over control of the local religious patrimony and where to institute the cathedral. The bishop of Jaca wished to establish the episcopal see at the site of the mosque; while Sancho I preferred to give the *jāmi'* mosque to the monks of Montearagón. In the end Montearagón was granted the small refectory in the castle, and control of the old Mozarabic church, including the baptistery and cemetery. The bishop of Jaca, in turn, was granted control of the mosque and its endowment (*miskidam pro sede, cum omnibus suis pertinentiis*).<sup>64</sup> This episode thus demonstrates the extent to which churchmen prioritized the control of mosques over conventional religious spaces and revenues. This, in turn, helps to explain why these incipient institutions would come to hold Arabic documents and establish property ledgers that went back into the pre-conquest period.

Taking over mosques posed the problem of how to establish what lands belonged to the newly-founded religious institutions. To resolve this issue, the royal foundational charters described above *de facto* transferred to each cathedral chapter the properties belonging to the converted mosque's *waqf* endowment, known in al-Andalus as *hubs* (properly *hubus*), with its property rights (the *mawqūf* or *muḥabbas*). Neither the idea nor the practical implications of *waqf* were incompatible with these newly founded Christian institutions. The perpetuity and irrevocability of the cathedral's property rights concurs with Islamic, and specifically Mālikī, conceptions of the legal rights and founding conditions for pious foundations. Indeed, *dhimmī* communities such as the Mozarabs of Toledo had been able to protect their religious institutions under

62 ACTort 13. "Preter hoc concedimus supradicte ecclesie et tibi omnia predia et possessiones que maior meschida sarracenorum eiusdem civitatis hactenus habuit ..."

63 ACTort 19.

64 Antonio Ubieto Arteta, ed., *Colección diplomática de Pedro I de Aragón y Navarra* (Zaragoza: CSIC, 1951), doc. 24, 241–3.

the aegis of *waqf* in al-Andalus, as in other areas of the Islamic world.<sup>65</sup> It is therefore unsurprising that Toledo's Mozarabs continued to follow this practice; among the private documents of Toledo, a number of Arabic charters were preserved that left property, in the same way as Latin *donationes*, to cathedrals and monastic foundations. These deeds followed the template of Islamicate *sadaqāt* or deeds of gift, which typically transferred property to *waqf* pious endowments.<sup>66</sup> During the thirteenth century, mosque *ahbās* would continue to be respected as a special land regime in Castile and Aragon. This legal concept would even enter Romance languages through Aragonese and Castilian documents of conquest, known as *habiz* or, in the plural, *alhabeçes*.<sup>67</sup>

One of the crucial links between these cathedral foundations and the mosques' estates is found in Zaragoza. We find it in an Arabic deed, recording the purchase of several properties by William of Narbonne, a Frankish settler of Zaragoza, between 11 and 20 Shawwāl 590 (29 September–8 October 1194). The contract specified that one of the plots sold in the village of Villanueva de Gállego, north of Zaragoza, was contiguous to *hubs* land of the local mosque (*faddānu ḥubisa li-l-masjid*). As such no owner was specified for this plot,

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- 65 As reflected, for instance, in al-Idrisi's description of a church in the Gharb al-Andalus and its possessions both before and after being conquered by the Portuguese. Al-Idrisi, *La première géographie de l'Occident*, trans. Henri Bresc and Annliese Nef (Paris: Flammarion, 1999), 263. For the use of *waqf* by *dhimmīs* in the wider Islamic world, Johannes Pahlitzsch, "Christian *Waqf* in the Early and Classical Islamic Period (Seventh to Twelfth Centuries)," in *Les fondations pieuses Waqfs chez les Chrétiens et les Juifs du Moyen Âge à nos jours*, ed. Sabine Mohasseb Saliba (Paris: Éditions Geuthner, 2016), 33–56; Johannes Pahlitzsch, "Cultural Encounters and Transfer: the Case of Pious Foundations in the Islamicate World," in *The Routledge Companion to Cultural History in the Western World, 1250–2000*, ed. Alessandro Arcangeli, Jörg Rogge, and Hannu Salmi (London: Routledge, 2019), 83–95; Pahlitzsch, "The Transformation of Latin Religious Institutions into Islamic Endowments by Saladin in Jerusalem," in *Governing the Holy City. The Interaction of Social Groups in Medieval Jerusalem*, ed. Lorenz Korn and Johannes Pahlitzsch (Wiesbaden: Reichert Verlag, 2004): 47–69.
- 66 Tol-Ar 727–9, 731–41, 1121, and 1037. For a comparable example of a gift to a Christian pious endowment from Fāṭimid Cairo, Geoffrey Khan, *Arabic Legal and Administrative Documents in the Cambridge Genizah Collections* (Cambridge: Cambridge University Press, 1993), 183–4.
- 67 Robert I. Burns, *Islam Under the Crusaders* (Princeton: Princeton University Press, 1973), 212–3, n. 96. The cathedral of Murcia, for instance, sued various local landowners to recover "the properties that were *hubs* land in the time of the Moors." Juan Torres Fontes, *Repartimiento de la huerta y campo de Murcia en el siglo XIII* (Murcia: CSIC, 1971), 83. Muslim communities continued to accumulate and protect goods through the mosque and its *waqf* until the late-fifteenth century. Ana Echevarría Arsuaga, *The City of the Three Mosques: Avila and Its Muslims in the Middle Ages* (Wiesbaden: Reichert Verlag, 2011), 106–9.

which was therefore treated separately to other contiguous allotments, owned privately both by Muslim and Christian neighbors.<sup>68</sup> Another example, this time from Tudela in 1183, suggests that religious institutions traded their rights over *hubs* lands. In this case, a local Muslim *qāḍī* and his brother received a plot linked to the mosque from Tudela's Hospitaller house in exchange for a plot formerly owned by the two brothers.<sup>69</sup> These two episodes confirm two key features of mosque *ahbās* in al-Andalus. First, the deeds established the irrevocability and perpetuity of *hubs* status once the land had been donated and converted into such status. Second, by not recording an owner, these examples highlight the specific fiscal rights associated with the land. These are left unstated, but they most likely referred to the same rights stated above for Tortosa's newly-founded bishopric. These were the annual retributions exacted for *praedia* and *possessiones*, meaning the fiscal rights over the moveable and immovable goods attached to the mosque's endowment. In both Zaragoza and Tudela's deeds, we can thus note a link between the ecclesiastical claims to mosque-lands as inheritors of the Muslim pious foundations, the production of these Arabic purchase-sale documents, and the religious institutions that stored them.

The prior documents confirm the continued legal force of *hubs* under Christian rule, or at least the denomination of former *hubs* land under a special fiscal regime under ecclesiastical jurisdiction. The same is noted from available evidence of the *waqf* properties maintained by the Muslim communities who remained under Christian authority. For instance, when the Muslims of Ascó received a municipal franchise following the surrender of Tortosa in 1148, the count of Barcelona allowed this community to retain their mosque "with all the benefits (*hones*) and edifices (*haedificia*) pertaining to it." The choice of words when describing the rights and properties of the mosque does not seem accidental here: *honor*, associated with fiscal lordship and landholding rights in this period, is revealing of the Christian conception of the legal and institutional force of the mosques and their rights. This was, in other words, the *ushr* and *kharāj* land typically held as *hubs*, meaning that these were special fiscal lands held in perpetuity by the mosques under their *waqf*.<sup>70</sup>

68 PCerveraVenta; Catlos, *The Victors and the Vanquished*, 187–8.

69 AHN OOMM, Car.912, MS 9. This is one of the rare bilingual Arabic-Latin charters preserved in Tudela. Catlos, *The Victors and the Vanquished*, 152.

70 "Et meçquite eorum permaneant sicut modo sunt cum honoribus et hedificiis [sic] earum." Josep Maria Font i Rius, ed., "La carta de seguridad de Ramón Berenguer IV a las morerías de Ascó y Ribera del Ebro (siglo XII)," in *Homenaje a Don José María Lacarra de Miquel en su jubilación del profesorado: estudios medievales*, 4 vols. (Zaragoza: Anubar, 1977), 1:575–76. For the role of "hones" in the wider Catalan settlement of the Ebro

These examples suggest that the preservation of *hubs* as a legal concept was likely related to efforts to bring former mosque lands under the jurisdiction and fiscal authority of the cathedral chapters. From the point of view of the cathedrals, the endowment of the mosque could be useful both in terms of the fiscal conditions ascribed to the plots of land, and to protect the ecclesiastical jurisdiction over these same lands. These aims are especially evident in two preserved documents in Tortosa's cathedral archive listing the *honores mezchite de Xerta*. These fiscal lists, which are sewn together and therefore archivally complementary to each other, were identified by previous scholars as composed in the late-twelfth century. They are almost certainly inventories of the *hubs* properties of the mosque of Xerta, a village located in a rich agricultural floodplain upstream from Tortosa that the diocese claimed fiscal control over. The documents recorded the plots in their territorial emplacement, and their productivity, measured in terms of the proportion of olive trees and other fruits cultivated in these plots. Echoing contemporary estate accounts or fiscal registers, these documents make clear reference to the pre-conquest topography and productivity of lands that had entered the patrimony of the cathedral. In so doing, they acknowledged the shared utility and productivity of the land before and after the conquests.<sup>71</sup> A similar unpublished series of documents preserved in Zaragoza's El Pilar potentially present the Arabic version of these same registers: in this case, eleven Arabic folia that, according to María Jesús Viguera, contain the fiscal accounts of the chapter's Muslim vills, most likely from the late-twelfth century.<sup>72</sup>

In sum, these lists were part of the creation of composite documentary assemblages for these religious foundations that went back to the royal grants issued in the early stages of the Christian annexation of the land. Over the course of the twelfth century, producing and storing Arabic deeds of sale in Toledo and the Ebro valley thus served two key purposes: first, to record the previous owners and legal conditions assigned to plots for new holders of

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valley, see Antoni Virgili, "Les conquestes catalanes del segle XII i els repartiments," in *Repartiments a la Corona d'Aragó (segles XII–XIII)*, ed. Enric Guinot (Valencia: Universitat de Valencia, 2011), 51–74.

71 ACTort 495. The document's description of properties includes the *jazīra* or "island" of Xerta. The *juzūr* were large estates of drained land with irrigation systems, developed after the ninth century and typical of the Islamic agricultural practices in Tortosa and its hinterland. Joan Negre Perez, "Origen y Desarrollo de la huerta de Tortosa (siglos IV–XII)," *Historia Agraria* 55 (2015): 11–40 at 28; Helena Kirchner and Antoni Virgili, "Espacios de cultivo vinculados a Madīnat Ṭurṭūša (Tortosa, Cataluña): norias, drenajes y campesinos (siglos VIII–XII)," *Edad Media: Revista de Historia* 20 (2019): 83–112.

72 Viguera Molins, "Documentos mudéjares aragoneses," 787. These documents remain unpublished.



the properties; and second, to record the price of previous purchases. These two features, which conditioned the productivity of properties, enabled the ecclesiastical foundations to keep a list of land under their jurisdiction, mostly for fiscal purposes. In so doing, they enabled the Christian seizure of the land through the validation of past proprietorship regimes over plots of land. Thus, one of the earliest Arabic deeds kept at El Pilar in Zaragoza ratified three transactions that had taken place in quick succession between Rabīʿ I and Shaʿbān 526/February–June 1132. The charter recorded the original owners of these plots under Islamic rule, and their transfer to a new Christian lord.<sup>73</sup> Likewise, through the recording of receipts or confirmations of payments, these sources also worked to legitimize the transfer of lands into the ecclesiastical estates. In this sense, Arabic deeds worked in conjunction with Latin royal concessions and other private Latin charters in the aftermath of the conquests to confirm the validity of past purchases, donations, and other property arrangements that had not been previously recorded in writing.

### 3 Fiscal Regimes and *que fuit* Charters

The creation of an apparatus of proprietorship and fiscal lists in the immediate aftermath of the conquest also explains the proliferation of a genre of royal charters known by modern scholars as *que fuit* grants in the Ebro valley. Most of the documents that fall into this category were royal concessions that recorded the fate of individual ownership of plots of land during the period immediately before and after the conquests, relinquishing the usufruct of the land to its new Christian owners. In return, the new proprietors would live in these newly-conquered settlements, remain faithful to their rulers, and refrain from alienating the goods and lands of fellow knights and clergymen.<sup>74</sup> Yet despite being nominally granted by the kings of Aragon and of Navarre, the *que fuit* charters are exclusively preserved in cathedral and monastic archives. This was partly accidental, as nobiliary archives have not survived. It is nonetheless striking that such *que fuit* grants coexist in the archives with the Arabic grants. In Tudela, for example, a total of four charters documented the entirety

73 Zar-Ar 3.

74 Thomas F. Barton, *Victory's Shadow: Conquest and Governance in Medieval Catalonia* (Ithaca: Cornell University Press, 2019), 115–9; Catlos, *The Victors and the Vanquished*, 103; Sénac, *La frontière et les hommes*, 449–56; Antoni Virgili, “War and Booty as Incentives for Emigration: Tortosa and al-Andalus (12th–13th Centuries),” in *From Al-Andalus to the Americas (13th–17th Centuries): Destruction and Construction of Societies*, ed. Thomas F. Glick, Antonio Malpica, Félix Retamero, and Josep Torró (Leiden: Brill, 2018): 103–29.

of Christian property activity in the city during the 1120s. Two of these charters recorded the transfer of rights over local mosques that eventually were incorporated into the cathedral's estate; while the two remaining documents ratified royal transfers from Muslim to Christian owners.<sup>75</sup> These same practices were replicated in Zaragoza, where both the charters housed at El Pilar and copied in the cartularies of the Cathedral of San Salvador contained a considerable number of similar grants in the period between the conquest and the 1170s.<sup>76</sup>

Borne out of colonizing "expediency" for Thomas Barton, these documents "relied on the collective memory of past proprietorship."<sup>77</sup> The creation of these property lineages to a period before the Christian conquest is particularly apparent in New Catalonia, especially in Tortosa. Here, the *que fuit* charters have typically been interpreted as confirmation of the Muslim exodus to al-Andalus, and therefore of the substitution of proprietorship regimes after 1148.<sup>78</sup> Yet the documentary implications go beyond such analysis. Among the countless examples, we find the collection of grants received by Tortosa's comital scribe, Ponç d'Ossor, a deacon of the cathedral, and originally from Barcelona.<sup>79</sup> In June 1149, just six months after the Muslim surrender, Ponç received the houses of Vahbala "maurus" in Lleida from the count of Barcelona. Soon featuring as Ramon Berenguer IV's *fidelis*, later in the same year he received the lands of Moferieg Abenguaziri and his family located in Tortosa, Xerta, and Amposta. Around Christmas time, Ponç was again presented with a new and hefty donation by the count. In it the count confirmed Ponç's ownership of the houses previously held by Abenguaziri, while also adding some new properties to the deacon's estate. These included a plot that Iucef Abe Monehim, Abenguaziri's

75 Tud-Lat 3–6.

76 Zar-Lat 4, 9, 10, 11, 25; and Ángel Canellas López, ed., *Los cartularios de San Salvador de Zaragoza*, 4 vols. (Zaragoza: IberCaja, 1989), docs. 11, 31, 47. For more contemporary *que fuit* charters from the Aragonese territories of the Ebro valley, Lacarra, "Documentos I," docs. 5, 28, 38, 39, 40, 42, 49, 64, 79, 81, and 83–4. See also José María Lacarra de Miguel, "Documentos para el estudio de la reconquista y repoblación del Valle del Ebro. Serie II," *Estudios de edad media de la Corona de Aragón* 3 (1947): 499–727, docs. 99, 104–7, 109–110, 113, 117, 119, 123, 125, 131, 134–5, 137, 139–40, 147–8, 154, 170, 222, and 259; "Documentos para el estudio de la reconquista y repoblación del Valle del Ebro. Serie III," docs. 301, 308, 321, 322, 345, 364–5, and 395.

77 Barton, *Victory's Shadow*, 117.

78 Virgili, *Ad detrimentum Yspanie*, 99.

79 For Ponç d'Ossor's career, Antonio M. Aragón and Josep Trenchs Òdena, "Las escribanías reales catalano-aragonesas de Ramón Berenguer IV a la minoría de Jaime I," *Revista de Archivos, Bibliotecas y Museos* 80 (1977): 421–42 at 424–5; Josep Trenchs Òdena, "Los escribanos de Ramon Berenguer IV: nuevos datos," *Saitabi* 29 (1979): 5–20 at 12–4; Trenchs Òdena, "Notarios y escribanos de Alfonso II (1154–1196): Datos biográficos," *Saitabi* 28 (1978): 5–24 at 7–8.

son-in-law, used to farm along with other plots owned by Muslim neighbours. These donations all eventually came into the cathedral's dominion.<sup>80</sup> By the time the production of *que fuit* charters start to dwindle *circa* 1170, a total of 39 grants in Tortosa's cathedral archive (17% out of 230 charters overall) described the re-possession of lands previously owned by local Muslims.<sup>81</sup> The precision in the descriptions of past proprietors, particularly clear in these Tortosan grants, reveals the resilience not just of the pre-existing toponymy but also of familial relations such as those of Abenguaziri in Tortosa, that were sufficiently important to be enshrined in these grants.

In Toledo, there is no direct equivalent to the *que fuit* charters; however, the proliferation of Arabic purchase-sale transactions can be seen as windows into equivalent use of the pre-conquest property regimes. As in the Ebro valley, the recorded transactions invoked and reappropriated the Islamic land market and evoked Muslim proprietors associated with specific plots in a pre-1085 context. In May 1167, for instance, a deed transferred half of a small neighborhood mosque (*masjid*), adjacent to Santa María of Toledo, to a canon of the cathedral. This mosque was situated next to a room (*ghurfa*) owned by Mariam the Muslim, wife of Ibādī the Butcher.<sup>82</sup> Three years later, this canon purchased another portion of the same mosque.<sup>83</sup> In 1178, another *masjid* was sold off to the cathedral canons in the same quarter of the city. This time, the sale comprised a stable with a house, which "in old times was known as a mosque" (*kāna masjidan fī al-qadīmi al-ma'alūmi*).<sup>84</sup> The potential function of these contracts was, therefore, both tracing the owners and valuation of particular plots of land, and also registering the boundaries and rentiers associated to the plots that were under the fiscal authority of the institution that either commissioned the document or eventually stored it.

Taken together, these documents reveal interesting echoes of the Sicilian *jarā'id*, issued by the Norman kings of Palermo to newly established cathedrals such as Monreale. These Sicilian documents were lists of the fiscal vassals of the recipient institutions, written both in Greek and Arabic. As the above

80 ACTort 17, 21, and 23.

81 ACTort 12, 16–7, 21–24, 26–7, 29–30, 37, 39, 41, 42, 44, 46, 53, 56–7, 63, 68, 78, 97, 99, 105, 121, 126, 136, 168, 173, 195, 201–2, and 230. *Que fuit* charters concerning Tortosa are also found in the archives of the royal monasteries of Santes Creus and El Poblet. Federico Udina Martorell, ed., *El "Llibre Blanch" de Santas Creus (Cartulario del siglo XII)* (Barcelona: CSIC, 1947); Agustí Altisent, ed., *Diplomatari de Santa Maria de Poblet. Vol. 1: Any 960–1177* (Barcelona: Abadía de Poblet, 1993).

82 Tol-Ar 82.

83 Tol-Ar 92.

84 Tol-Ar 141. See also Tol-Ar 295.

examples, these lists described the names of villeins, the properties owned, and, in addition, the taxes due – unlike Iberian charters. As Jeremy Johns explains, these lists helped, first, to establish an apparatus of proprietorship and settle the legitimate division of the land. Second, these records helped to resolve the problem of displacement and unregistered villeins. Finally, *jarā'id* had a fiscal function for the cathedrals, as they helped to arrange ecclesiastical tax farms.<sup>85</sup> Similar to Sicily's *jarā'id*, therefore, Toledo and the Ebro valley's documents reflect a complex picture of landownership, in which the new settlers actively sought to preserve the pre-conquest *status quo*. The use of Arabic toponymy, anthroponymy, and patronymy was fundamental to these texts, in sanctioning the transition from Islamicate to Latinate forms of proprietorship and fiscal regimes. In so doing, they interacted with Arabic deeds such as Abū Ishāq's Toledan grant, as well as with orally transmitted knowledge embedded in the land market. Such practices would crystallize during the thirteenth-century conquests. Thus, the books of *repartimiento* of the island of Mallorca, for example, were drafted in at least one bilingual Arabic and Latin copy produced as early as 1232.<sup>86</sup> These examples demonstrate that the tracing of property ownership of individual plots back to the pre-conquest Islamic period was not simply a passive consequence of the transmission of knowledge embedded in the plots of land. This phenomenon should instead be considered as a reflexive documentary response to changes in the uses of the land, which produced a new genre of written property ledgers based upon the networks of people that worked the land.

#### 4 The King's Land

As the evidence of *que fuit* grants suggests, the partition of the land and the tracing of the lineages back to the conquests, and the documentary activity that it encouraged, also needs to be read in the context of royal attempts to capitalize on the annexed territory and harness the political and economic ambitions of its settlers. In these early days of Christian rule, access to property was power; the king's ability to run these conquered spaces was commemorated through the issuing of charters. Indeed, this explains why most of the

85 Johns, *Arabic Administration*, 51–62.

86 Jaime Busquets Mulet, "El código latino-arábigo del repartimiento de Mallorca: texto árabe," in *Homenaje a Millás-Vallierosa*, 1:243–300; Busquets, "El código latinoarábigo del Repartimiento de Mallorca. Parte Latina," *Bolletí de la Societat Arqueològica Lul·liana: revista d'estudis històrics* 30 (1947–52): 708–52.

royal surrender treaties granted to the Muslims in the Ebro valley regions, as in Toledo, systematically included protections for these groups over their mobile and immobile possessions.<sup>87</sup> These were wishful promises that, as the *que fuit* documents reveal, were often broken. It is likely that the implications were not the actual protection of Muslim property, but the protection of the royal right to alienate Muslim lands.

One example of this took place on the first anniversary of the Catalan conquest of Tortosa, when Ramon Berenguer IV handed over control of the *extra-muros* neighbourhood of Darracina to any Jews who wished to resettle there. The *dār al-ṣinā'a* could take the meaning of shipyard or arsenal, but in the Umayyad and *ṭā'ifa* states it also signified the area of the city housing the state workshops in ceramics and other industries that required being outside the city walls. This was therefore a key commercial concession to a royal ally. The Jews of Darracina were assured personal freedoms and possessions, including administrative and jurisdictional independence from the local Muslims, under the legal framework of the Jewish community in Barcelona. In addition, the Jews were encouraged to rebuild the existing seventeen towers (*turres*) and to build up to forty new houses (*mansiones*). They were also granted the properties of some previous Muslim owners in the neighbourhood, and portions of estates in Darracina owned by Ramon Berenguer IV productive both in wine and oil. Given the strategic importance of Tortosa in the Western Mediterranean networks and the hugely profitable fluvial trade of the River Ebro, this was a clear sign of comital support of the local Jewish notables. The Count of Barcelona used his proprietary powers in the conquered town to favour the patrimonial expansion of individuals and communities who could

87 For Toledo, Ibn al-Kardabūs, *Kitāb ta'rikh al-iktifā'*, ed. A.M. al-'Abbādī, *Revista del Instituto Egipcio de Estudios Islámicos* 13 (1965–1966), 85; and Jiménez de Rada, *Historia de rebus Hispaniae*, 203–5, vi:22. For the same protections in the Ebro valley, Luis Javier Fortún Pérez de Ciriza, “Colección de ‘fueros menores’ de Navarra y otros privilegios locales (1),” *Príncipe de Viana* 34 (1982): 273–348 at 289; María Teresa Ferrer i Mallol, “La capitulación de Borja en 1122,” *Aragón en la Edad Media* 10–11 (1993), 278–9; Prósper de Bofarull i Mascaró, *Colección de documentos inéditos del Archivo de la Corona de Aragón*, 41 vols. (Barcelona: Imprenta de José Eusebio Monfort, 1847–1910), 4:130–4; Josep Maria Font i Rius, “La carta de seguridad de Ramón Berenguer IV a las morerías de Ascó y Ribera del Ebro (siglo XI),” in *Homenaje a Don José María Lacarra*, 1:575–6. *c.f.* Brian Catlos, “‘Secundum suam zunam’: Muslims in the Laws of the Aragonese ‘Reconquista,’” *Mediterranean Studies* 7 (1998): 13–26; Catlos, *Muslims of Medieval Latin Christendom*, 32–4.

help sustain Barcelona's control of the locality. In the process, the protection of Muslim property was seemingly overlooked.<sup>88</sup>

The significance of Darracina's grant is also in the direct association between Jewish settlers and the king's private estate. In Toledo we also find similar bilateral land relations; and, once again, the importance of Abū Ishāq's sale stands out. Although putatively a private land transfer it should not be taken as an ordinary exchange. Only a handful of the preserved transactions of Toledo ever amounted to the 300 *mithqāls* that Abū Ishāq had originally paid for his estate in 475/1083. In this sense, then, Abū Ishāq's purchase was an outlier among the cathedral's documents.<sup>89</sup> It should not come as a surprise that the king was persistently linked to this property after 1085. As mentioned before, the property of Abū Ishāq was taken by Alfonso VI sometime between 1093 and the first decade of the twelfth century. Although parts of this property were then transferred to the cathedral chapter, several of the stored purchases from Toledo reveal that the king maintained an orchard in the village of Zalencas, known in the Arabic documents as the orchard of the king, or *karm al-sultāni*.

Similar sales took place later in the twelfth century. In a standout transaction, the daughters of one of the famed Jewish *nesi'im* of the city, Abū al-Ḥasan Yahudah b. 'Ezra, traded their vast estate to Santa María in July 1185. This operation was so costly, worth over 500 *mithqāls* of various kinds of gold, that the Jewish sellers and cathedral agreed to put the king forth as guarantor. The country estate in question was an aristocratic *almunia* in Azaña, which had been originally granted via royal concession by Sancho III of León-Castile (r. 1156–58) to Ibn 'Ezra in 1158. This prior grant was justified as constituting compensation for Ibn 'Ezra's services as royal tax collector (*almojarife* or *wazīr al-mushrif*) during the brief and convoluted reign of Sancho III, a position Yahudah had previously held under King Alfonso VII of León-Castile (r. 1126–54). We know this through the original Arabic sale of 1185, which affirmed that, along with the purchase, the Jewish daughters had also handed over the royal deed from Sancho III, written in "Romance" (*'ajami*), granting

88 Josep Maria Font i Rius, *Cartas de población y franquicia de Cataluña. Vol. 1: Textos* (Madrid: CSIC, 1969), 126–8. The significance of this grant in the context of the conquest of Tortosa and the relationship between the local Jewish community and the count of Barcelona, is further explained in Barton, *Contested Treasure*, 25–54.

89 No other properties sold for 300 *mithqāls* between 1085 and 1185, and only six documented sales sold for more than 100 *mithqāls* in that same period, all except one of them during Alfonso VIII's reign, under whom the new *maravedi alfonsí* was minted. These sales are Tol-Ar 7, 114, 161, 175, 228, 255, and 259.

the allotment to Ibn ‘Ezra.<sup>90</sup> In fact, a Latin copy of Sancho’s original transfer to Yehuda, issued in 1158, has survived.<sup>91</sup> Likewise, a royal confirmation of the 1185 transfer has also survived in Latin, which appears to summarize the contents of the private Arabic sale, and confirmed that Santa María had paid the 500 gold coins fully to the Jewish sellers.<sup>92</sup>

These examples not only illuminate the interaction between crown and royal dependents. They also demonstrate the intricate documentary interaction between private, ecclesiastical, and royal deeds that underpinned the movement of land in the years following the conquest. In this context, the Zalencas royal estate and its comparison to similar cases in Toledo and the Ebro valley provides a useful snapshot of the royal apportionment of the land. The fate of the orchard in Zalencas suggests that this movement of land and documents must be understood as part of the formation of royal estates in these conquered territories. Especially so in the very early stages of Christian re-settlement, when the king’s landholding power relied on the legitimacy of Toledo’s pre-conquest land market and the preservation of its legal force. This system enabled the handing out of property to incoming settlers and royal allies, including Jewish communities in both Toledo and Tortosa, who may have used their knowledge of the cities’ economies in these unstable conditions to their advantage. The tension between the private control of plots of lands and the claims to these same properties by conquering monarchs, as exemplified through the large concessions to royal vassals and allies, thus served to leverage royal power. This was a crucial factor in the proliferation and preservation of Arabic and Latin property deeds. A range of incipient ecclesiastical institutions capitalized on this dynamic and, through royal patronage, further consolidated their patrimonial interests in these conquered towns. The charters preserved in the religious archives of Toledo and the Ebro valley thus reflect only a partial snapshot of the interaction between private and royal interests in local property markets.

90 Tol-Ar 175. González Palencia incorrectly interprets the name as “al-‘Udra” or “Odra.” For Yahudah (Judah) b. ‘Ezra, Pilar León Tello, *Los judíos de Toledo*, 2 vols. (Madrid: CSIC, 1979), 1:33–4; Yolanda Moreno Koch, “Ibn Ezra, Judah (Abū ‘l-Ḥasan) ben Joseph,” in *Encyclopedia of Jews in the Islamic World*, ed. Norman A. Stillman (Leiden: Brill, 2010). DOI: [http://dx.doi.org/10.1163/1878-9781\\_ejiw\\_COM\\_0010540](http://dx.doi.org/10.1163/1878-9781_ejiw_COM_0010540); Norman Roth, “New Light on the Jews of Mozarabic Toledo,” *AJS Review* 11, no. 2 (1986), 189–220 at 210.

91 Tol-Lat 122; León Tello, *Los judíos de Toledo*, 2:371–2.

92 Tol-Ar 175; Tol-Lat 213.

## 5 An Oral World

The transactions presented in this paper also suggest that written legal practices were understood as part of a wider landscape of local arrangements that were primarily performed and transmitted orally. As an early Aragonese charter stated in 1103, many incoming Christian owners wished to enjoy their new lands and properties “just as they were best held in the time of the Moors” (*sicut melius tenentes fuerunt in tempore de moros*). This became a common expression found in many Aragonese and Catalan grants of the twelfth century.<sup>93</sup> Such formulation acknowledged the implicit pre-existing boundaries of said parcels and sought to confirm them through written proof. Recording these transfers sometimes proved crucial. One illuminating example is found in a Toledan contract of sale from 1134, in a purchase by a cathedral canon named Vital from a local inhabitant, Saʿīd b. Sarsij. The document explained that the acquired land used to belong to Saʿīd. However, Don Vital, the buyer, did not have any right over part of the land previously sold by Saʿīd, as Vital had lost the original document of sale.<sup>94</sup> The preservation of grants that sometimes went back to a time before the churches were even established thus allowed subsequent buyers and sellers to prove the legitimacy of transactions associated with that land. The production of charters in both Arabic and Latin, therefore, responded to a shared need to retrospectively formalize arrangements in writing. This appears as a reflexive act that was a significant contributing factor to how Christians harnessed the conquered territory rather than merely reflecting the socio-economic and legal logics that resulted from said territorial expansion.

In the context of a hurried post-conquest reorganization of the land, the preservation of such contracts may have been especially valuable for these newly established institutions. Oral transfers were widely employed during the eleventh and twelfth centuries when managing local property markets in both Latin Christian and Western Islamic societies. As in other contemporary regions of the Mediterranean basin, in Christian and Muslim Iberia the presence of witnesses and guarantors were required to ensure transactions. Written proof was discretionary or supplementary to the formalization of these agreements. Thus, for all of Don Vital's bad luck, most other Toledan transactions were not as strict about the lost receipts. Such was the case in a

93 José María Lacarra de Miguel, “Documentos para el estudio de la reconquista y repoblación del valle del Ebro. Serie I,” *Estudios de Edad Media de la corona de Aragón* 2 (1946): 469–574 at 478.

94 Tol-Ar 21.



Toledan transaction of 1137, which specified that the written contract was only drafted twelve years after the original execution of the sale.<sup>95</sup> This suggests that, despite the significance of documentary practices, these did not always reflect the disposition of agreements in real time. Documents such as these were drafted retrospectively, when the properties were being transferred once again, or subject to legal proceedings, and the written document was deemed necessary.

The form and contents of the Arabic and Latin deeds, as in the *que fuit* documents, therefore, responded to the sudden changes to property markets, and the uncertainties that naturally arose from the oral character of the majority of transactions executed in the aftermath of the Christian conquests. This is revealed in a preserved royal municipal charter granted to the Mozarabs of Toledo, unique in its storage in the city's municipal archive alongside mostly fourteenth- and fifteenth-century evidence. This royal grant recounted how, on 19 March 1101, the local Toledans gathered to survey the properties acquired by the local Christian groups since 1085. The king sent for Toledo's chief judge or *alcadi* and his deputy, the *alguacil*, along with the city council formed by ten notables of the city comprised by equal numbers of Mozarabs and Castilians. Alfonso VI then ordered them to determine collectively the possessions owned by each of these two factions in the municipality. All prior disputes over the land acquired by the Mozarabs before 1101 were therefore settled after this process, and the royal charter thus sanctioned the legitimacy of the Mozarabs' possessions, both the land (*hereditates*) and its adjacent buildings (*cortes*).<sup>96</sup> The charter thus formalized the unofficial control of lands that had followed the conquest. Critically, this episode also exposes the equivocal boundary-marking and land apportionment during those first years after the Christian arrival in Toledo.

In the Ebro valley, similar tensions arose from the conditions in which the early division of the land took place, and the absence of a system to regulate the hasty occupation of the territory. A famous charter of Ejea de los Caballeros explains how, some twelve years after the conquest of this settlement in the Cinco Villas region in 1105, the royal *merino* summoned the local Muslims to help establish the boundaries of a plot of land owned by the magnate Lop Garcés Pelegrino.<sup>97</sup> Soon after, another royal grant guaranteed to the

95 Tol-Ar 30; also Tol-Ar 143, 422, 423.

96 García-Gallo, "Los fueros de Toledo," 459.

97 José Antonio Lema Pueyo, *Colección Diplomática de Alfonso I de Aragón y Pamplona: (1104–1134)* (San Sebastián: Editorial Eusko Ikaskuntza, 1990), doc. 81, pp. 124–5. Lop Garcés Peregrino was one of the key Aragonese landowning magnates under King

municipality of Ejea, “both Christians and Muslims,” full access to the irrigation systems of the town, “just as they used to hold them in times of *Molmozor*”, the former Islamic ruler.<sup>98</sup> This example, as Toledo’s, reveal the parallel problems caused by the sudden incorporation of these territories into the Christian kingdoms. Ejea’s charter appealed to the knowledge of the remaining Muslim community as a means of legitimizing the land regimes that were imposed in the years that followed the Aragonese takeover. The request made to Ejea’s local Muslims also confirms that these societies continued to rely on the legal status of the land under Islamic rule; and that these were not always accurately reflected in the written record. This had direct documentary implications: Arabic deeds such as Abū Ishāq’s were preserved in part because they had the potential to clarify the limits of individual parcels and to record the previous owners of these plots, which the Mozarabs and Castilians in Toledo or the Muslims of Ejea had been tasked to settle. In short, the absence of systematic records of property transactions in the initial stages of Christian rule may have acted as a key determining factor in shaping the documentary practices of the decades that followed.

From a documentary standpoint it is especially revealing that neither Ejea’s example nor Toledo’s 1101 *fuero* agreement were preserved in ecclesiastical contexts. It demonstrates that the partitioning of land could and did take place without the supervision or involvement of local religious institutions – despite their housing most of the extant documents of the early incorporation of Islamic lands into the Aragonese and Castilian polities. This leads to a second, key point in understanding the documentary production of the early conquests: while most of the documents preserved are stored today in ecclesiastical archives, many of the deeds – Arabic and Latin alike – had little or no immediate relation to these institutions. This suggests, once again, the retrospective character of the value assigned to these written acts. The documents were preserved, in other words, to serve the economic and political interests of the institutions that encouraged their storage.

## 6 Conclusion

The previous pages have evaluated the impact of the Christian conquests over pre-existing documentary and contractual traditions, land tenures and local

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Alfonso I. Agustín Ubieta Arteta, *Los tenentes en Aragón y Navarra en los siglos XI y XII* (Zaragoza: Anubar, 1973), 137.

98 Lacarra, “Documentos I,” 506–8.

knowledge-production, and vice versa. Previous historiography has tended to understand the incorporation of Toledo and the Ebro valley in terms of the imposition of new political cultures and religious regimes, and the effective “disappearance” of al-Andalus and its documentary and social traces. But the evidence of the Arabic deeds presented here, and their conversation with Latin charter production, shows that the conquerors actively sought out this Islamic legacy and engaged with it as a way of advancing Christian economic interests. This should not be interpreted as a quest to appraise the influence of “Spanish Islamic law” on “Spanish Christian law,” as early-twentieth century legal historians such as Rafael de Ureña and Ribera sought to prove in their works on the Mozarabic administration of Toledo.<sup>99</sup> Rather, this article has looked at the available sources as part of a documentary and archival phenomenon that was the result both of the conditions in which the conquests took place and of the reorganization of land regimes and socio-economic networks in the immediate aftermath of the conquest. This, I argue, is a necessary yet neglected aspect of the wider re-appraisal of the conquests of Toledo and the Ebro Valley regions – moments typically considered “historical walls,” in the words of Gil Anidjar, that perpetuate a “discourse on a vanishing past and on hermetic borders” between the Andalusi and Christian worlds.<sup>100</sup>

The article argues that property documents such as Zalencas’s functioned in four key ways. First, these charters became part of the development of the new cathedral chapters and other religious institutions that would help to settle these conquered regions. These documents helped to establish what we may call as “documentary matrices”<sup>101</sup> and histories for these novel ecclesiastical foundations. They also helped to create property ledgers and lists of fiscal dependents associated to these newly-formed institutions. Second, these documents acted as part of a wider program of royal claims to jurisdiction of these conquered spaces, and the establishment of a royally-sanctioned land economy. Third, the transactions helped to negotiate the tensions caused by the informal land-grab that followed these conquests. The conquests of Toledo

99 As highlighted in Maribel Fierro, “Spanish Scholarship on Islamic Law,” *Islamic Law and Society* 2 (1995): 43–70 at 54.

100 Gil Anidjar, *Our Place in Al-Andalus: Kabbalah, Philosophy, Literature in Arab Jewish Letters* (Stanford: Stanford University Press, 2002), 4.

101 To borrow the terminology of Julien Louiseau in relation to the documentary function of *waqf* documents in Mamlūk Cairo. Julien Louiseau, “Le silence des archives. Conservation documentaire et historiographie de l’Etat dans le sultanat mamelouk (XIII<sup>e</sup>–XVI<sup>e</sup> siècle),” in *L’Autorité de l’écrit au Moyen Âge: Orient-Occident* (Paris: Publications de la Sorbonne, 2009): 285–98. See also Daisy Livingston, “Documentary Constellations in Late-Mamlūk Cairo: Property- and *Waqf*-Related Archiving on the Eve of the Ottoman Conquest of Egypt,” *Itinerario* 44 (2020): 528–51.

and the Ebro valley resulted in the earliest examples of the uses of documents in the territorial incorporation of Islamic lands into new Christian polities. Property-related documents helped to account for the sudden redistribution of the land in the years immediately after the Christian takeover. Finally, because of this reorganization of the land, Arabic documents were used in an effort to legitimize and sustain the very legal cultures that were upended by the conquests. This attempt at using property documents as part of Latin settlement explains why, despite substantial socio-economic, topographical, and political differences, we find parallel uses of Arabic land contracts and notarial practices shared by both Toledo and eastern Iberia. Abū Ishāq's purchase, as other Arabic documents further east, interacted creatively with Latin Iberian charter production – royal, ecclesiastical, and private – that together formed part of the documentary integration that followed the conquests.

Irrespective of how these documents were produced, their storage and usages in ecclesiastical archives demonstrate an active engagement by these religious institutions with prior legal and notarial traditions. The interaction between Arabic and Latin charters suggests that these were not marginal operations, but were at the heart of the strategies of incorporation of these territories. Such is especially clear in the post-conquest engagement with, and appropriation of, the mosque *waqf* system. The evidence presented above suggests that the recycling of Arabic documents and their diplomatics in new Christian contexts was encouraged by widespread attempts to capitalize on the legal securities granted to mosques and their land regimes. The decision not to include the Arabic documents as part of the twelfth-century inventories and *registras* of cathedrals and ecclesiastical institutions seems not only flawed and exclusionary, but also a distortion of the documentary practices of these nascent religious foundations.