


# Situations of Freedom and Unfreedom in the Great Ecclesiastical Properties of Al-Andalus (c. 950-1060)

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**ENG Abstract.** The Arabic MS 1623 of the Royal Library of the Monastery of El Escorial is extremely rich in information on the form of governing the large tracts of ecclesiastical properties that survived from the Visigothic period until well into the Andalusi period. The transformations that occurred in land exploitation are currently being explored through archaeology, but the *Canonical Collection of Andalusi Christians* (c. 950-1060) allows us to analyse<sup>1</sup> the continuity of the Visigothic servile system, the typology of unfree and free persons under Christian law and its parallels in Maliki law, and the characteristics of manumission and the persistence of the Christian slave system once it passed into Islamic rule.

**Keywords:** Slavery, manumission, canon law, Mozarabic, Christians of al-Andalus.

## ES Situaciones de dependencia y libertad en las grandes propiedades eclesiásticas de Al-Andalus (c. 950-1060)

**Resumen.** El MS Ar. 1623 de la Biblioteca Real del Monasterio de El Escorial (BRME) es extremadamente rico en información sobre la forma de gobernar las grandes extensiones de propiedades eclesiásticas que pervivieron desde el periodo visigodo hasta bien avanzado el andalusí. Las transformaciones que ocurrieron en la explotación se exploran actualmente a través de la arqueología, pero la *Colección Canónica de los Cristianos Andalusíes* (c. 950-1060) nos permite analizar la continuidad del sistema servil visigodo, la tipología de las personas no libres y libres según el derecho cristiano y sus paralelos en el islámico, y las características de la manumisión.

**Palabras clave:** Esclavitud, manumisión, derecho canónico, mozárabe, cristianos de al-Andalus.

**Summary:** Introduction. 1. The Unfree in the Ecclesiastical Domains of al-Andalus and the Continuation of the Great Visigothic Estate. 1.1. The Slaves of the Church in al-Andalus. 1.2. The Ubiquitous Figure of the Freedman. 2. Issues concerning Manumissions by Will. 3. The Incorporation of Freedmen into Christian Andalusi Society. Conclusion. Bibliography.

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## Introduction

The adoption of the terms *freedom* and its opposite *unfreedom*, corresponding to the dichotomy between free and unfree in legal sources, highlights the breadth of a concept that the classic term *slave*, or *serf*, with all its feudal connotations, have failed to capture. However, scholarship has recently begun to clarify the ambiguity of the concept, as medieval works have been more closely scrutinised in order to determine the exact conditions and limitations of each type of "slavery".<sup>2</sup> The scarcity of records of applied law on this subject in Visigothic Hispania and al-Andalus can to some extent be made up for through the use of legal sources. The study and edition of the *Canonical Collection of*

<sup>1</sup> The research for this article has been carried out within the framework of the project "Christian Society under Muslim Rule: Canon Collections from Muslim Spain", funded by the Gerda Henkel Foundation between 2019 and 2024.

<sup>2</sup> For an updated bibliography on this debate in the period under discussion, see Alice Rio, "Freedom and Unfreedom in Early Medieval Francia: The Evidence of the Legal Formulae", *Past & Present*, 193 (2006): 7-40; M<sup>a</sup> Filomena Lopes de Barros and Clara Almagro Vidal, "Introduction: ties that bind and shape unfreedoms", in *Forms of Unfreedom in the Medieval Mediterranean*, (Évora: CIDEHUS, 2021), <https://doi.org/10.4000/books.cidehus.18815>; Raúl González González, "Esclavitud y dependencia personal en el país asturleonés (siglos IX-XIII)", *Medievalismo*, 27 (2017): 159-205

the *Andalusi Christians* in Arabic, or *al-Qānūn al-Muqaddas* (CCA EA from now on), offers a new perspective, building upon the growing body of scholarship focussed on the Visigothic and early medieval Christian period.<sup>3</sup>

The CCAEA consists of a compilation of canon laws translated into Arabic by a team presumably led by the presbyter Vincent, originally written for an unidentified bishop on papyrus or another medium that would deteriorate over time. They used not one but several Latin collections extant in surrounding institutions to collate the canons. This translation was quoted verbatim by the *Kitāb al-Masā'il al-sab' wa-l-ḥamsīn* (*Book of the Fifty-Seven Questions*), attributed to the Andalusi author Ḥafṣ b. Albar al-Qūṭī (c. AD 889-961), which would give a terminus *ante quem* for the text.<sup>4</sup> This work therefore allows us to delve into the state of the Andalusi Church between the tenth and eleventh centuries, roughly corresponding to the period of the heyday of the Andalusi Caliphate and the early years of the Taifa of Seville.

Years after the work of Martínez Díez, Abu Haidar and Kassis, the state of the art on the so-called "Mozarabic Systematic Collection" has progressed considerably. The parchment manuscript of the CCAEA transmitted to us is a copy dedicated to bishop 'Abd al-Mālik by an anonymous scribe in 1049 AD, and not the original manuscript by the presumed author of the compilation, presbyter Vincent.<sup>5</sup> A paleographic study of the Latin folios contained in BRME MS Ar. 1623 has yielded new evidence regarding its geographical origin, through a comparative study of different Visigothic capital scripts.<sup>6</sup> Certain features common to all the manuscripts and tombstone epigraphs from al-Andalus link the 1049 manuscript to the *scriptorium* responsible for the *Apologeticus* of Samson (BNE, MS 10018), the *Biblia hispalese* (BNE, MS Vit. 13-1) and the *Etymologies* of Isidore of Seville (RBME, MS T-II-24). Therefore, either the origin of the manuscript or the training of its scribes was located in the metropolitan province of Baetica (archdiocese of Ishbiliyya). The manuscript is then related to the *Biblia Hispalese* and other works produced in the see of Cordoba for the metropolitan of Seville. At that time, the Taifa of Seville was governed by al-Mu'taḍid (1042-1069), who pledged theoretical allegiance to pseudo-Ḥiṣām II until 1060, when the Taifa's territorial expansion had been completed. The renewal of the Umayyad Caliphate in al-Andalus might justify the acknowledgement of the Church's property in the central area of al-Andalus, where the dioceses were stronger. Even so, al-Mu'taḍid's power was limited, as it only reached as far as the former Taifa of Mértola to the west, while Córdoba remained reluctant to accept him as protector –and then successor to the caliph– until it was conquered in 1068.<sup>7</sup> Individual authorship for each of the versions of the *Collectio Hispana* is hardly sustainable in the current state of research on early medieval Christian canon law throughout the Mediterranean. Despite exceptions where the name of the author is well-known, the content and layout of these canon collections reflect a tradition of transmission carried out by multiple compilers and scribes. While scholars often assume these texts follow a sequence of "official" publication or compilation by prominent figures, with intentional stages of development, various scholars suggest that the manuscripts reflect a process of continuous and far more gradual textual evolution. Every manuscript copy represents a new recension or edition, and variation between manuscripts is strikingly evident.<sup>8</sup> Thus, the formation of an authoritative canon does not imply that there are no changes in the laws tailored to the intentions of the compiler or the patron of the collection. Consequently, the canons included or omitted within the CCAEA, as well as those featuring modifications in their translation, are vital for understanding the contemporary needs of the Church. The assimilation of the Christian community into Andalusi society informed these evolving needs.

<sup>3</sup> Following Claude Dietrich's study, "Freedmen in the Visigothic Kingdom", in *Visigothic Spain: New Approaches*, ed. Edward James (Oxford: Clarendon Press, 1980), 159-188, practically each canon has merited a separate study, focusing on its themes. We will cite them as this work progresses so as not to be too repetitive. As a general introduction with recent bibliography, Noël Lenski, "Slavery Among the Visigoths", in *Slavery in the Late Antique World, 150-700 CE*, ed. by Chris L. de Wet, Maijastina Kahlos and Ville Vuolanto (Cambridge: Cambridge University Press, 2022), 251-280.

<sup>4</sup> Pieter Sjoerd van Koningsveld, "The Date of al-Qānūn al-Muqaddas: The Lisbon Fragments and the Islamic Sources", in *Canon Law and Christian Societies in the Medieval Mediterranean*, Matthias Maser, Jesus Lorenzo and Geoffrey K. Martin (eds.). (Turnhout: Brepols, 2024), 61-86, 68-70.

<sup>5</sup> Results of the project have been published in the monograph Matthias Maser, Jesus Lorenzo and Geoffrey K. Martin (eds.), *Canon Law and Christian Societies in the Medieval Mediterranean*, (Turnhout: Brepols, 2024).

<sup>6</sup> A definition of the methodology used in Irene Pereira García, "La epigrafía y la escritura mayúscula de los códices visigóticos. Una aportación al estudio del elemento mozárabe", in *Forma, uso y función de lo escrito. From Antiquity to the 12th century*. Carmen del Camino Martínez (ed.), Seville, Editorial Universidad de Sevilla, 2026. See the article by Pereira in this same volume.

<sup>7</sup> Almudena Ariza Armada, *Breve historia política de las Taifas* (Madrid: Dilema, 2025), 83-86.

<sup>8</sup> The variability in manuscripts is confirmed by Michael Eber, Stefan Esders, David Ganz and Till Stüber, "Selection and Presentation of Texts in Early Medieval Canon Law Collections: Approaching the Codex Remensis (Berlin, Staatsbibliothek, Phill. 1743)", in *Creative Selection between Emending and Forming Medieval Memory*, ed. Sebastian Scholz and Gerald Schwedler, (Berlin: De Gruyter, 2022), 105-136: 105 and, above all, David Wagschal, *Law and Legality in the Greek East: The Byzantine Canonical Tradition, 381-883* (Oxford: Oxford University Press, 2015), 27-30. Michael D. Elliot, "The Worcester Collection of Canons", in *Proceedings of the 14th International Congress of Medieval Canon Law*, Toronto 5-11 August 2012, (Vatican City: Biblioteca Apostolica Vaticana, 2016), 1-29: 1-3. They all stress that we must abandon a methodology based on determining the extent to which there is a fixed 'model' for the collection while ignoring the additional canons found in some of the abridged versions. Furthermore, as many manuscripts have been produced outside of the bishop's direct control, traditional ascriptions of single authorship to Church Fathers are often invalidated.

# 1. The Unfree in the Ecclesiastical Domains of al-Andalus and the Continuation of the Great Visigothic Estate

## 1.1. The Slaves of the Church in al-Andalus

Lack of freedom is the main characteristic of the definition of servant in the *Etymologies* 5.27.32: "Slavery (*servitus*) is named from saving (*servare*), for among the ancients, those who were saved from death in battle were called slaves (*servus*). This alone is the most extreme of all evils; for free people it is worse than every kind of punishment, for where freedom is lost, everything is lost with it."<sup>9</sup>

It is now widely accepted that dependents worked the properties of the Church from the Roman to the Andalusi period, and the classification of these people into groups of the unfree and the free coincides with the types of dependency indicated in the Latin sources. The laws of Chindasvinth (642-652) expanded the rights of the unfree, granting them greater control over their *peculium* and the right to testify in court (though not against their own masters). In many respects, they were regarded more as persons than as livestock, particularly in their capacity to marry voluntarily.<sup>10</sup> By the eighth century, social changes resulted in an increase in the proportion of free individuals relative to the unfree.<sup>11</sup>

On the other hand, slavery and the world of the patronage of freedmen were shared with Maliki law, which also viewed manumission as a spiritually meritorious act, though one that remained strictly regulated from a practical standpoint.<sup>12</sup> Legal formularies by Ibn al-'Aṭṭār (d. 399/1008) and Ibn Muḡīṭ (d. 459/1067), almost contemporary to the canon collection copy, insist on the absolute obligation to provide a manumitted person with a means of subsistence. They also stress the transition of the freedman into the patronage of his former owner – a practice rooted in Roman law that aligned with Visigothic tradition. This legal overlap made it relatively easy for Islamic authorities in al-Andalus to recognize such manumission procedures for Christians under their rule.<sup>13</sup> This may have facilitated the persistence of Christian slavery and the continuity of donations, manumissions and other legal transactions involving Church dependents in the Andalusi period.

According to their social class, *servi* could be *idonei* or *inferior*, the former usually slaves acknowledged by their upper-class masters, for whom they could perform skilled trades. *Mancipia* were those slaves who came from purchase, while the *famuli* were born and raised within a slave family; the *ancillae* were the female slaves, who passed servile status to their children and the term *servi* was used by Isidore for those who came from captivity in war. If they worked in the house they were *domestici*, and formed part of their master's *domus*, which afforded them closer proximity and a greater chance of being freed upon the death of their master. Apart from being bought and sold, slaves could be acquired by donation, they could be used as security for a mortgage, their ownership could be shared, and their services could be provided or rented to others, especially if they had a specialised trade.<sup>14</sup> In addition to standard practices, other forms of enslavement existed during the Visigothic period. These included the enslavement of abandoned children (though the sale of one's own children was forbidden), and temporary dependency resulting from debts.<sup>15</sup> This latter form was often used as compensation for death (*wergeld*); if the fine was considered too high, the offender might be forced into service.<sup>16</sup> Over time, debt bondage was also contemplated as a punishment for other types of crimes. In addition, Roman and Visigothic civil law authorized other forms of semi-dependency were authorised by, such as the status of tenant settlers (*coloni*) tied to agrarian service, as well as freedmen who, once manumitted, were subject to the patronage of their former master and his family for several generations, owing them certain services.<sup>17</sup> The Church as an institution –especially bishops and abbots acting as great landholders– was deeply embedded in these social hierarchies, and canon law reflects this extensively.

<sup>9</sup> Stephen A. Barney et al. (transl.), *The Etymologies of Isidore of Seville*, (Cambridge: Cambridge University Press, 2006), p. 125.

<sup>10</sup> The control of slaves over their *peculium* in the Visigothic period was considerably strengthened, to the detriment of their masters, in *Liber Iudiciorum* 5.4.13. Lenski, "Slavery among the Visigoths", 257-259.

<sup>11</sup> Dietrich, "Freedmen", 161-162.

<sup>12</sup> Juan Gil, "Formulae", in *Miscellanea wisigothica*, Sevilla: Universidad de Sevilla, 1991, 69-113: 110; Francisco Javier Aguirre Sádaba, "De esclavos a libertos: fórmulas de manumisión en al-Andalus en el s. XI, según el *Muqni* de Ibn Muḡīṭ", *Miscelánea de Estudios Árabes y Hebraicos, Sección Árabe-Islam* 50 (2001): 21-51, 25; for Christians, Dietrich, "Unfreedom", 161; Edorta Córcoles Olaitz, "The Manumission of Slaves in the View of the 'Formulae Visigothicae'", *Veleia*, 23 (2006): 339-349.

<sup>13</sup> Pedro Chalmeta y Marina Marugán (trans.), *Formulario notarial y judicial andalusí del alfaquí y notario cordobés m. 399/1009*, (Madrid: Fundación Matritense del Notariado, 2000). Several models refer to slaves (6,9), many more to types and models of manumission (models 91-111), 88-89, 105-113, 429-484.

<sup>14</sup> Models in the Visigothic and Islamic forms in Aguirre Sádaba, "De esclavos a libertos", 50; Noel Lenski, "Slavery among the Visigoths", 256-258; González González, "Esclavitud y dependencia personal", 167-168 argues that no major break in personal dependence occurred in the western Peninsula until the eleventh and twelfth centuries. During this period, traditional terms like *mancipia* and *ancilla* persisted alongside new terms such as *puer* or *iunior*, likely referring to their youth. These appeared in the Romance translation as *men of criazon* or *iunior de cabeza*. While *Mancipium* and *mancipella* are restricted to domestic slaves, free colonists appear as *homines de mandatione*, whose living conditions were virtually undistinguishable from those of *servi*. All these groups were present in the episcopal and monastic domains of the north of the Peninsula.

<sup>15</sup> A formula in this respect in Gil, "Formulae", 101-102.

<sup>16</sup> Noel Lenski, "Slavery among the Visigoths", 260-264.

<sup>17</sup> On the status of freedmen, see the precedents established in several *Novellae*. For a detailed analysis, Dietrich, "Freedmen" 160-162. Concerning colonists see Adriaan Johan Boudewijn Sirks, "The Colonate in Justinian's reign", *Journal of Roman Studies* 98 (2008): 120-143; Noel Lenski, "The Late Roman Colonate: A New Status between Slave and Free", in *The Oxford Handbook of Greek and Roman Slavery*, Stephen Hodkinson, Marc Kleijwegt and Kostas Vlassopoulos (eds.) (Oxford: Oxford University Press, 2016), <https://doi.org/10.1093/oxfordhb/9780199575251.013.24>.

The transition to Islamic rule did not substantially change the range of possibilities available to the great landlords, although motivations and rights could vary.<sup>18</sup> A slave could be manumitted as atonement for certain religious transgressions, or judicially (*bi-l-qaḍāʾ*), such as in the case of a slave who bears her master's child upon his death, the mutilation of a slave, or the acquisition of a slave of a close relative, or manumission as expiation to rectify an error (*kaffāra*). The methods and timing of manumission are equally varied: the immediate and total liberation of a slave (*ʿitq*) at the owner's discretion; the promise of freedom after the owner's death (*tadbīr*); and a contract allowing the slave to purchase his freedom in installments (*kitāba*). This latter arrangement was particularly common in cases of captivity that could not be settled by ransom; a situation that frequently applied to Christians.<sup>19</sup> The derivatives of the first form that refer to the freedmen of the Church in the Andalusī period in general, including the testamentary liberation of Gaudentius mentioned in the synod of Seville (590), provides a clear indication of the type of manumission involved.<sup>20</sup> All the aforementioned cases were permissible under Islamic law; in addition to these, eunuchs –mentioned frequently in the Latin canonical collections, but less so in the CCAEA– were also recognized.<sup>21</sup>

Church dependents mainly appear in the last part of Book III of the CCAEA, although ecclesiastical properties (and therefore slaves) were dealt with previously in Book I. These topics are recurrent throughout the compilation due to their relationship with various issues<sup>22</sup>, such as the authority given to Christian religious elites to administer their properties. Francisco Cintrón's research has shown that the second title of Book I, translated into Arabic as "On the partitions, divisions and provisions of the clerics" (*fī l-sihām wa-qismāt wa-mu'nāt al-qlāriqīn*), is much more detailed than the original Latin version "On the stipends of the clerics" (*De stipendiis clericorum*), adding several more canons that form a small treatise on Church finance.<sup>23</sup> The content coincides with another section of the CCAEA, translated by a different hand, and featuring its own set of variations: Book III, Title 37, "On the disbursement of Church funds" (*fī infāq amwāl al-kanīsa*).<sup>24</sup> In choosing this arrangement, the translators of the *Qānūn* deviated from the order indicated by the *Excerpta*, which in turn followed the *Capitula Martini* by beginning with the canons concerning the bishops; in the latter, the issue of Church administration appeared only later, within the extensive Book III.<sup>25</sup> According to the *Excerpta*, Book III.37 contained nine canons; the *Qānūn* however, complements these by three more.<sup>26</sup> The *mancipia* appear already in canon 11 of the Council of Orléans I as *mamālīk*, included in the lists of properties that churches and monasteries receive in donation. The use of the term *mamlūk* coincides with that used in the Arabic sources, both the theoretical and the formulary ones.<sup>27</sup> Another canon specifies that the bishop of an ecclesiastical province (*usqf al-kūra*) can dispose of these funds for the restoration and maintenance of churches and the expenses and provisions of his servants (*ma'ūnati-him*).<sup>28</sup>

In addition, in Book II, there are some provisions relating to the episcopal patronage of monasteries which also referred to their workers. The bishop who wished to create a monastery by transforming one of the churches of his diocese into a *coenobium*, had first to ask the people of the domain, who would provide a livelihood for the monks.<sup>29</sup> The next canon laid out the property that the bishop was to dedicate to financing such a monastery (one fiftieth

<sup>18</sup> Cristina de la Puente, "Entre la esclavitud y la libertad: consecuencias legales de la manumisión según el derecho mālīkī", *Al-Qantara* 21 (2000): 339-360, 340-353; Irene Schneider, "Freedom and Slavery in Early Islamic Times (1st/7th and 2nd/8th centuries)", *Al-Qantara* 28-2 (2007), 353-382, Schneider notes that at the beginning of the Islamic period, debt-based servitude was distinct from slavery and could be initiated either by judgment or self-will.

<sup>19</sup> For a Visigothic manumission postponed to the death of the master see formula in Gil, "Formulae", 74; Aguirre Sádaba, "De esclavos a libertos", 26-27; Cristina de la Puente, "Ties before and after manumission: Slaves under a contract of manumission (*mukātabūn*) according to the Andalusī notarial manuals (10th-12th Centuries)", in *Forms of unfreedom in the Medieval Mediterranean*, Maria Filomena Lopes de Barros and Clara Almagro Vidal (eds.) (Évora: Publicações do Cidehus, 2021), <http://books.openedition.org/cidehus/18365> (last accessed 8/5/25), 10.

<sup>20</sup> This root and its derivatives are always used, although we know from Toledan documentation that the purchase of freedom in instalments was also practised. E.g. CCAEA, fol. 206r-v.

<sup>21</sup> The canons addressing to the impossibility of eunuchs entering the priesthood are found in the most damaged part of the manuscript, Book I, 1, and remain illegible. RBME MS Ar. 1623, *al-Qānūn al-Muqaddas* or *Collectio Canonum Arabicorum Ecclesiae Andalusiae* (hereafter CCAEA) CCAEA, fols. 4v-5r. Eunuchs maintained close contacts with monasteries in the Byzantine Orthodox Church, acting as patrons for architectural works and mausoleums built there, and helping the clergy access the court. Perhaps their most singular role was as clerics for female monasteries, where they administered communion and served as the nuns' primary contact with the secular world. These many roles led canonists to question whether their physical condition was an impediment to receiving Holy Orders. Rodolphe Guillaud «Les eunuques dans l'empire byzantin. Etude de titulature et de prosopographie byzantines» *Études byzantines*, 1 (1943): 197-238, 202-205; Georges Sidéris, «Les eunuques de Byzance (IVe-XIIe siècle): de la société de cour à la société urbaine», in *Dynamiques sociales au Moyen Âge, en Occident et en Orient*, Élisabeth Malamut (ed.), (Aix-en-Provence: Presses universitaires de Provence, 2010), 35-40.

<sup>22</sup> Matthias Maser, "Papal Decretals in the Arabic Canon Law Collection From al-Andalus. Patterns of Selection, Arrangement, and Indexing", in Maser et al., *Canon Law*, 162-164.

<sup>23</sup> CCAEA, fols. 11r-16v. All these aspects of church financing and the distribution of funds will be studied by Francisco Cintrón in his doctoral thesis entitled "The Christian Imamate of Al-Andalus: Law, Society, and Christian Community in the Islamic West". I am grateful to Francisco Cintrón for allowing me to consult this unpublished part of his thesis.

<sup>24</sup> CCAEA, fols. 203r-205v. In Latin, *De dispensatione ecclesiasticarum rerum*.

<sup>25</sup> While they appear as an appendix to Braga II in the *Hispana* version, they are identified as Braga III in the *Vulgate*. Cornelia Scherer, "Looking Over the Editor's Shoulder Strategies and Processes Applied to the Systematic Arrangement of the *Collectio Hispana*", in Maser et al., *Canon Law*, 130.

<sup>26</sup> Agdé, c. 36; Carthage IV, c. 51 and c. 52.

<sup>27</sup> Aguirre Sádaba, "De esclavos a libertos", 32.

<sup>28</sup> CCAEA, fol. 204r-204v.

<sup>29</sup> Council of Toledo IV, title 4, mentioned in the CCAEA as c. 7, fol. 112r.



part or *quincuagesima*),<sup>30</sup> or if he wanted to be buried in the monastery church, despite not being a monk, he was required to contribute a hundredth part for the sustenance of the monastery.<sup>31</sup> Naturally, all these properties must have been staffed by workers who assisted the monks in managing their pious endowments (*aḥbās*), a term that is used throughout the CCAEA to refer to the donations made to the Church. Despite his limitations with respect to the abbot, the bishop retained the ability to make decisions on the rents of properties established as pious endowments for these monasteries (*waqf*). This allowed them to stay exempt from the usual distribution of taxes paid by the Christians.<sup>32</sup> The authority of the abbots over the servants of the monastery is mentioned in Book III.38.43. The abbots were forbidden not only to sell the servants without the bishop's knowledge, but also to manumit the slaves donated to the monks as a whole. The reason given in the Latin versions is that it is unjust that while the monks work the fields as part of their ecclesiastical discipline, the slaves should be manumitted and enjoy a freedom that would allow them to work less than the monks do.<sup>33</sup>

## 1.2. The Ubiquitous Figure of the Freedman

The trend towards manumission and the use of free dependents in ecclesiastical properties has been noted since the sixth and seventh centuries, to the point that Dietrich considered this group as a true legally defined social class in Visigothic law.<sup>34</sup> From the eighth century onwards, the trend would continue, so these freedmen would still pay both the *peculium* to the Church and the taxes due to Muslim rulers, in particular those derived from production.<sup>35</sup> The contents become much more precise, throughout Book III.38 on the guardianship and prohibition of alienating Church property and on bishops doing so without consultation (*fī ḥirz amwāl al-kanā'is wa-'alā tibā' tafawut wa-fī bay' al-asāqif lahu*), where both unfree people and freedmen appear. More precisely, title 39 addressed freedmen and the family of the Church (*fī ma'tuqā al-kanā'is wa-mamālikihā*),<sup>36</sup> and in two short titles, title 43 on the maintenance of the status of the serfs, more clearly translated into Arabic as "about the inheritance of the slaves for the descendants of the clients" (*fī tawārīḥ al-'abīd li-'aqb al-mawālī*) and title 44 on the freedmen entrusted to the Church (*fī l-mu'tawāqā al-nāṣ al-mustawda'in 'inda al-kanā'is*).<sup>37</sup> In terms of structure, with the exception of title 38, which has several canons that do not follow the selection that appears in the Latin versions —although none of them concern slaves and freedmen— all the others maintain the order and contents almost verbatim, thus showing that the topics that were of interest still concerned the ownership of dependents at the time of the translation of the collection. Title 39 omits two canons from the Council of Toledo IX which were difficult to apply under Islamic rule, as we shall see shortly, and title 43 adds a canon from the Council of Gangra.

Canons directly affecting slavery or reversal of this status are limited and frequently scattered among those on Church property in general, whereas Book III deals with the freedmen of the Church. Freedmen under its patronage had a legal personality, unlike the slave, who was always under his master's responsibility. Studying the Arabic glossaries that may have been used to translate a collection such as the CCAEA, D'Ottone and Wibier have documented the Arabic translation of *ingenuus* or *libertus* as *ḥurr* in the *Leiden Glossary*, which would be correct from the point of view of Visigothic law.<sup>38</sup> However, in the CCAEA *libertus* is systematically translated as an irregular form (a neologism) derived from manumission (*'aqt*), i.e. *mu'tiq*, plur. *mu'tiqūn*. Titles 38, 39, 43 and 44 of Book III are devoted to the manumitted slaves and the fulfilment of their clientage (*walā'*) vis-à-vis the Church, whose terms were carefully specified.

As in the Visigothic period, the bishops had ultimate control over the unfree workers of the Church, both those who were personal property because the bishops were born into large landowning families, and those who had been donated or obtained by the churches of his diocese. Hence, the bishop was only authorised to free or to leave to his relatives those who were part of his personal property, and not those who worked for his Church.<sup>39</sup> If he wished to free one of the others without them remaining under patronage —that is, if the liberation was total and he remained as a citizen, a reward which was normally granted only to one of his trusted slaves— he had to give the Church two

<sup>30</sup> Council of Toledo IX, c. 5. Tax on the transfer of emphyteutic goods or commercialization, according to Visigothic and Byzantine laws.

<sup>31</sup> It is mentioned in the CCAEA as Toledo VIII. CCAEA, fol. 112v.

<sup>32</sup> Ana M<sup>a</sup> Carballeira, «On the Legitimacy of Non-Muslim *waqfs* in al-Andalus (10-12th c.)», in Sabine Mohasseb Saliba (dir.), *Les fondations pieuses waqfs chez les chrétiens et les juifs. Du Moyen Âge à nos jours*, Paris: Librairie Orientaliste Paul Geuthner, 2016, 73-84.

<sup>33</sup> To provide a contrast with the Latin versions, this study uses the *Hispana Sistematica* manuscript from the monastery of Moissac, now preserved in the National Library of France as BNF MS Lat. 1565. While this codex is the closest textual parallel to the CCAEA, although as we shall see, it nonetheless exhibits important differences. BNF MS Lat. 1565, f. 121r-v.

<sup>34</sup> Dietrich, "Freedmen", 162.

<sup>35</sup> On the importance of church property and manumissions for the taxes collected by the Visigothic king, see Merle Eisenberg & Jamie Wood, "The Business of Bishops: The Ecclesiastical Economy of Visigothic Iberia", *Al-Masāq*, 35:3 (2023), 388-408 and Damian Fernandez, "Property, Social Status, and Church Building in Visigothic Iberia", *Journal of Late Antiquity* 9/2 (2016): 512-541.

<sup>36</sup> This can be seen in canons interspersed in the first title. CCAEA, fols. 206v-207r, 209v, 210r, 212v, 213v, 214r-v. For the definition of the *servorum family*, see Pablo C. Díaz, "Domus uel curtis. Residencia campesina, propiedad y explotación agraria en la Hispania visigoda", in *Political landscapes in Late Antiquity and Early Middle Ages: the Iberian Northwest in the Context of Southern Europe*, ed. Iñaki Martín Viso, (Florence: Firenze University Press, 2024), 7-31: 19. In the Arabic translation, instead of family, it speaks specifically of freedmen.

<sup>37</sup> CCAEA, fol. 214v-228v.

<sup>38</sup> *Leiden Glossary*, f. 65v, apud Arianna D'Ottone and Matthijs Wibier, "Visigothic Law and Canon Law. Reconsidering the Leiden Glossary and the *Vocabulista in Arabico*", in Maser et al., *Canon Law*, 216, 242, following Simon Corcoran, "The donation and will of Vincent of Huesca: Latin text and English translation", *Antiquité Tardive* 11 (2004): 215-222 and the *Formulae Visigothicae* n<sup>o</sup> 2, 3, 4, Gil, "Formulae", 72-75.

<sup>39</sup> For the difference between public Church property and private property of the bishop, see María José Roca Fernández, "La distinción entre patrimonio eclesiástico y privado de obispos y clérigos en la España visigoda", *e-Legal History Review*, Extra 20 (2015): 1-16.

other slaves in remission or compensate it for their value.<sup>40</sup> To carry out any sale transaction, the need for it had to be demonstrated before several bishops of the province or neighbours (*asāqif al-balad al-mutaḡāwarīn al-kanā'is tilka al-darūra*).<sup>41</sup>

The bishop had additional powers over the Church's estates, which also affected slaves and freedmen and their performance; specifically, the possibility of lending or assigning the property of the Church to cover his own expenses or those of the brothers he was hosting, as well as those of the clergy, the poor, pilgrims and monks. However, all this was to be done without alienating the assets, granting only temporary enjoyment of them. The insistence in this respect is important, as the CCAEA adds an additional canon on this subject beyond those found in the Latin versions; from this we can infer that the canons were not strictly followed, and that the bishop likely disposed of these properties to donate them to his relatives or protégés.<sup>42</sup>

However, authority over freedmen seemed to be divided; the text defines exactly who had power over dependents and sets limits on the exercise of these powers. The Council of Chalcedon, c. 8, which appears in Book II<sup>43</sup>, reiterates that both clerics and monks (or nuns, we understand) and laymen (*al-ruḡbān wa-l-qlariqīn wa-l-layiqīn*) who reside in the villages of the monasteries, are ultimately dependent on the bishop of the city (*usquf al-madīna*). Book III returns to this theme, discussing ecclesiastical properties and the lay dependents of the Church. The repetition of instructions and canons shows the importance of the subject to be dealt with, as is demonstrated in each of the reiterations we observe in the collection.<sup>44</sup> Moreover, presbyters and other clerics were forbidden to release any slaves from ecclesiastical property, least of all if they had not contributed their property as a dowry to the church to which they were attached. On the other hand, those priests who left their property to the Church did have the possibility to select a slave for manumission, as long as they maintained their clientele with respect to the Church.<sup>45</sup>

In any case, freedmen were at all times bound to the Church in general (in this case to the diocese on which they depended) with a bond of clientage (*walā'*), which was maintained as long as they held the *peculium* granted by it, which is valued at twenty coins (*solidi*) or a grant in land or houses of this value, while they worked for themselves and for their patrons<sup>46</sup>. The need to provide the freedman with a form of maintenance, which normally encompassed the *peculium* available to him when he was a slave, is reflected in different laws of both the CCAEA and the *Liber Iudiciorum*, and is embodied in a *peculium* comprising donations of "the two lands, the vineyards and the livestock" (*al-arḡayn wa-l-karmāt wa-l-mawāšī*),<sup>47</sup> the same as the Visigothic wills of the previous period, which followed the legal recommendation to leave small plots of dry or irrigated land, or a vineyard, or a quantity of livestock for the maintenance of the freedman and, where appropriate, his family.<sup>48</sup> These donations were held in emphyteusis, as stated in the canons of Book III, 38, 2 and III, 39, 10, which authorised it to be left in inheritance to the children. If the freedmen did not have descendants, the *peculium* was to return to the Church, and if they wanted to sell it, it was to be offered first to the priest and if not, with his knowledge, to children or relatives who were also freedmen of the Church, so that the patrimony would not be dispersed.<sup>49</sup>

The obligations or service (*obsequium*) provided by the freedmen as a reflection of their client status are not described in the councils or Visigothic *formulae*.<sup>50</sup> In the CCAEA the word used to translate this obligation was *ḥidma* (pl. *ḥadam*), meaning service or work to be done. In addition, the freedmen were required to perform a series of jobs which can be associated with public works.<sup>51</sup> The provision of these services may also appear in Islamic contracts, establishing which tasks are to be performed and during which months of the year.<sup>52</sup>

The bond of patronage (*walā'*) or eternal patronage of the Church is as well established in the Andalusī period as in the Visigothic.<sup>53</sup> The special characteristic of the owner, in this case the Church, as an institution that never dies and therefore maintains all rights over its dependents during the following generations of its descendants is dealt with in several canons. Book III, 39, 4 and 6 of the CCAEA provided for this perpetuity. It was formally and publicly sanctioned by the professions or declarations which the freedmen and their families read before each new bishop to ratify their submission as clients, in proportion to their means, with their obedience and *obsequium* –terms which in this context

<sup>40</sup> Book III, 38, 2-3 taken from the Hispalense I, c. 1-2 and the Agatense, c. 7. CCAEA, fols. 206r-v.

<sup>41</sup> Book III, 38, 18 of the Council of Agde. CCAEA, fol. 209v.

<sup>42</sup> Book III, 38, 33; Book III, 38, 45. CCAEA, fols. 212v-213r, 214v.

<sup>43</sup> Book II, I, 6 of the canons extant today. The Arabic version is slightly different from the Sistemática Latina in the BNF MS Lat. 1565. CCAEA, fol. 112v-113r.

<sup>44</sup> Maser, "Papal decretals", 162-164 points out that the repetitions are constant in the manuscript although sometimes minor lexical or stylistic changes can be observed.

<sup>45</sup> Book III, 39, 1, of the Council of Toledo IV, c. 67 and Book III, 39, 3, of the same, c. 69. CCAEA, fols. 214v-215v.

<sup>46</sup> Synod of Seville I, c. 1-2. CCAEA, Book III, 38, c. 2-3, fols. 206v-207r.

<sup>47</sup> Council of Orleans I, c. 11, CCAEA, fols. 204r-204v, already noted by Cintron.

<sup>48</sup> D'Ottone and Wibier, "Visigothic Law", 216; Corcoran, "Donation and Will", 220-221. Note that slaves are referred to here as *mancipia vagantia*, which the editor translates as not bound to any land, although the translation by *cattle* is rather dubious.

<sup>49</sup> Canons taken from the Synod of Seville I, c. 1 and Council of Toledo IX, c. 16. CCAEA, fols. 206v, 217r-v.

<sup>50</sup> Dietrich, "Freedmen", 183-184" argues that it would be fixed in the contracts, but it does not appear in any of the formulas that have survived; Fernandez, "Testators", 373 seems to consider it a kind of personal commitment. For example, in the founding document of the monastery of San Juan Bautista de Corias in Asturias (1044) it is stipulated that the *servi* were to work for the monastery two days a week, while the other four were reserved to their own work, offered to them as a pious donation. González, "Eslavitud", p. 180. It would be logical to think that, if they were freed, they would maintain this obligation as clients.

<sup>51</sup> Book III, 39, 9, taken from the Council of Toledo IX, c. 15. CCAEA, fol. 216v.

<sup>52</sup> Aguirre Sádaba, "De esclavos a libertos", 40.

<sup>53</sup> Stefan Esders, "'Because Their Patron Never Dies': Ecclesiastical Freedmen, Socio-Religious Interaction, and Group Formation under the Aegis of 'Church Property' in the Early Medieval West (Sixth to Eleventh Centuries)", *Early Medieval Europe* 29/4 (2021): 555-85, 565-567,

are distinct from one another. This would prevent the notion of their unfree origin –so important in maintaining their ties with their patron– from being lost over time.<sup>54</sup> In fact, if they did not perform this act of submission, they would be punished by having their deeds annulled and, if discovered, they would be returned to servile status. This type of acknowledgement of clientele was also important, as the Islamic forms show, to determine to whom the freedman's inheritance should go if he had no descendants.<sup>55</sup>

Moreover, their children were to be educated by the bishop, an important condition for keeping the number of Christians stable in the context of Islamic society, while instilling in them the principle of patronage vis-à-vis the Church.<sup>56</sup> Furthermore, freedmen who remained under the patronage of the Church could neither be admitted to the priesthood or to a monastery, as this created a problem by causing the institution to lose the *peculium*,<sup>57</sup> nor were they allowed to marry free individuals, because of what this could entail for the status of the family.<sup>58</sup>

Another question would be the military obligations of the slaves of the Church and to what extent did the freedmen have the possibility of fulfilling them or of mobilizing sufficient resources to arm themselves, although in principle weapons were to be provided by the Church.<sup>59</sup> The first question was whether they would really be recruited into the armies of the Caliphate or later, of the Taifa of Seville, and against whom, but the expansive policy of the Taifa in the following years suggests that the ecclesiastical dominions of Baetica may have supported their king.

## 2. Issues concerning Manumissions by Will

Testamentary manumission as reflected by the councils and the Visigothic formulas<sup>60</sup> may be similar to that contemplated in the sources of Islamic law under two headings: posthumous manumission and deferred manumission, as contemplated by Ibn Mugīṭ. However, the figure of the slave who had been promised liberation after the death of the owner –making him a *mudabbār*– does not appear in the canons, which continue to maintain the same terminology for all cases.<sup>61</sup> Manumission as an act of piety at the time of a bishop's testament is the first topic to appear in Book III, related to the obligation not to alienate the goods of the Church, which is dealt with in title 38. The crisis leading to the discussion at the I Synod of Seville (590), was raised by the presbyters who complained that the inheritance of Bishop Gaudentius left the Church without workers for its land.<sup>62</sup> These same prohibitions remained in force in al-Andalus.

The question of the paternal or familial obligation of bishops –who continued to present themselves as men of large estates with children and other relatives– as opposed to their obligation toward the Church, was resolved by allowing the bishop to confer personal gifts to the see as compensation for his emancipation of slaves of the Church. Fernández has insisted on the importance of the will as a way of preserving wealth among the Visigothic elites,<sup>63</sup> and even more after the Islamic conquest, when the estates of Christian families might be in greater danger. The picture presented by the CCAEA suggests that at least some of the clergy married or had concubines with recognized children, which made clerical inheritance extremely complicated. Leaving large estates and their means of production to family members, guaranteeing their subsistence as well as their social pre-eminence, could be an important motivation for the Andalusí bishops. Moreover, a son who was disinherited without any justification could demand his rightful share in court. Although the freedom of the individual to leave his property as he wished should be maintained, it was important to set some limits that took into account the economic viability of the property and its exploitation, a concern that underlies both family disputes and ecclesiastical legislation.<sup>64</sup> In the application of this inheritance law, what was left by the author of the will should not contravene the rights of any religious institution.<sup>65</sup> We note that the concern not to violate the rights of the presumed owners (whether Christian or Muslim) overrides charity.

Donations by will were the most common form of sustenance of the Church, which could thus benefit not only from the inheritance of its clergy, but also from the liberality of other members of its congregation. Book I of the CCAEA elaborates on what proportion of the patrimony the bishop could dispose of for both purposes: regarding the inheritance for his relatives, he was to retain one-third for the improvement of the primary heir, whereas testamentary donations (including those to his own see) could only reach one-fifth, also including the manumission

<sup>54</sup> Córcoles Olaitz, "The Manumission", 341-342.

<sup>55</sup> Aguirre Sádaba, "De esclavos a libertos", 44.

<sup>56</sup> Taken from the Council of Toledo IV, c. 70 and Toledo VI, c. 9 and 10. CCAEA, fols. 215v-216r. There is some confusion in the Arabic version, as it says that one of the canons comes from Toledo VI and the other from Toledo VII, when in fact both come from the same council.

<sup>57</sup> This canon is added in the Latin version of the BNF MS Lat. 1565, fol. 123r; to title 39, from Toledo IV, c. 73. However, in the CCAEA it is not included in this book but rather in Book I, 1, 57, fol. 11r, where it deals with ordination to the priesthood.

<sup>58</sup> Book III, 39, 8 taken from Council of Toledo IX, c. 14. CCAEA, fol. 216v. Dietrich, "Freedmen", 173-174.

<sup>59</sup> Damián Fernández, "Testators and the Visigothic State: A 'from the Ground Up' Approach to Inheritance Law", *Al-Masāq*, 35:3 (2023): 364-387, here 381-382. Abū l-Qāsim ibn Abbad had Mozarabic contingents among his troops, but these came from border fortresses; it is impossible to know whether the Andalusí Christians also reinforced these contingents, destined for combat against other Muslims. Al-Mu'tamid had a *cadi*, general of the Mozarabic troops, called Muḥammad ibn Martín, who took the city of Córdoba for himself and died together with prince 'Abbād when it was conquered by the Toledans. Ariza, *Breve historia*, 83, 156-157.

<sup>60</sup> Formulas 1 and 21 in Gil, "Formulae", 71-72, 94-95.

<sup>61</sup> Aguirre Sádaba, "De esclavos a libertos", 28, 32.

<sup>62</sup> Marta Szada and Jamie Wood, "Succession Crises in Sixth-Century Iberia: Dead Bishops, Greedy Clerics, and the Council of Valencia in 546," in *Lincoln Readings of Texts, Materials, and Contexts, Supplement to Studies in Medieval and Renaissance Sources*, ed. Graham Barrett and Louise J. Wilkinson, Leeds: ARC Humanities Press, 2024, 29-61; Díaz, "Domus uel curtis," 15-16.

<sup>63</sup> Fernández, "Testators", 367.

<sup>64</sup> Fernandez, "Testators", 367-369, 373.

<sup>65</sup> Corcoran, "Donation and Will", 218.

of both his personal slaves and those of the diocese, as well as the property that was granted to them together with the *peculium*.<sup>66</sup>

Testamentary manumission has left extensive references in the Visigothic and Islamic formularies, which did not differ much from one another, especially considering that the bond of patronage following manumission was common to both communities. The presence of witnesses at the ceremony, and the formal declarations made by the manumitted persons themselves in the presence of the successors of those who had freed them, appear repeatedly in both legislation and the formularies.<sup>67</sup> In both faiths, the manumission had to be registered publicly before several witnesses required by the owner and acknowledged and declared by the slave.<sup>68</sup>

Corcoran points out that the manumissions reflected in the wills of Vincent of Assan were granted by three terms: *ingenuus*, *liber* and *civis Romanus*.<sup>69</sup> These three figures are also viable in Islamic Maliki law. The figure of the “Roman citizen” has an obvious equivalent in that of the “free Muslim with rights and obligations” that is indicated in the Islamic forms<sup>70</sup>, but it is more difficult to know where the Andalusí Christian freedmen would be placed within the rank of citizenship.

### 3. The Incorporation of Freedmen into Christian Andalusí Society

The removal of freedmen from ecclesiastical patronage threw them into the bosom of Islamic society. This led to the continuation of punishments for contumacious freedmen –those described as having been ungrateful to the Church for their liberation and who displayed insolence. If they submitted willingly to another patron,<sup>71</sup> and refused to return to ecclesiastical patronage, they were to be punished for ingratitude, but the Church might lack effective means to punish them, as it is not specified.<sup>72</sup> The question was especially serious if the freedman converted to Islam by changing his patron, for it is questionable whether the Church could then defend its position, despite the above provisions. What the bishops could do was to sell the property of runaway unfree persons or freedmen, who on their return were not to be received back into their service due to their misbehaviour.<sup>73</sup> This would leave their relatives in an adverse situation if they had remained in the ecclesiastical properties involved.

The short titles 43 and 44 of the CCAEA are perhaps the ones that raise issues closest to the insertion of the manumitted servants of the Andalusí Church into society at large. The modifications with respect to the Latin versions are most visible in the first one, in which a new canon from the Council of Gangra has been added,<sup>74</sup> forbidding anyone to use religion as a pretext to provoke a slave (*mamlūk*) to despise his master and abandon his service. It is clear that in a mixed society where Muslims and Jews could own Christian slaves, moving them to revolt against their masters could constitute a real social danger, for which the Church could pay a high price if they were found to have been preaching on this issue. Moreover, it violated the statute of the *dimma*, which presupposed that no proselytising of any kind could take place. The insertion of this canon in such a precise context leaves no doubt about the problems faced by the Andalusí Church. On the *famuli* fleeing to sacred soil, the epistle of Gelasius to Bishop Boniface was also quoted, including if one fled from a Jewish owner having previously been a Christian.<sup>75</sup>

Another law found in the Latin collections referred to the admission of serfs who had fled from their lords, and then became members of the clergy, monks or simply servants of ecclesiastical institutions, acquiring their protection in the process.<sup>76</sup> This fragment raises several interesting questions. Regarding its sources, the use of Pope Gelasius’ *Decretum generale* (Epistle no. 14 in Thiel’s edition) implies that the Andalusí Christians had a complete version of it, and not only of the separate decretal that is usually transmitted independently under the name of Hormisdas – instead of Gelasius– referring to the books to be used in the Church (no. 42 of the same Epistle in Thiel).<sup>77</sup> But there is also a difference between those to whom it is addressed. While the *Excerpta* and the *Hispana systematica* refer to the “illiterate or those who are physically handicapped”, the decretal in Arabic mentions once again slaves (*mamālik*) who are accepted as church staff (*amwāl al-kanā’is*) and those who become part of monastic communities (*la an yaqlū fī l-dayrāt li-ṭalabhum al-rahbāniyya*).<sup>78</sup>

<sup>66</sup> *Lex Visigothorum*, 4.5.1, issued by Chindasvinth but later modified by Ervigius, in Fernandez, “Testators”, 379, 383. Excluded from this were gifts from the king, spoils of war and other presents in general, which could affect slaves if they were of this provenance. See also *Leges Visigothorum* 4.2.16 and 5.2.3.

<sup>67</sup> Dietrich, “Freedmen”, 164.

<sup>68</sup> Gil, “Formulae”, 71-72, 94-95; Aguirre Sádaba, “De esclavos a libertos”, 35-36, 38; De la Puente, “Ties before and after manumission”.

<sup>69</sup> He translates these terms “free born”, “free” and “Roman citizen” respectively. Corcoran, “Donation and Will”, 221.

<sup>70</sup> De la Puente, “Ties before and after manumission”, 19.

<sup>71</sup> A right that was never contemplated in canon law. Dietrich, “Freedmen”, 174.

<sup>72</sup> Book III, 38, 21; III, 39, 5. CCAEA, fols. 210r, 215v.

<sup>73</sup> Book III, 38, 18 according to the Council of Agde, c. 7. CCAEA, fol. 209v.

<sup>74</sup> In the Arabic translation it is incorrectly referred to as the Neo-Caesarean council, c. 3, although the canon number is correct, it belongs to Gangra. CCAEA, fol. 227r.

<sup>75</sup> Andreas Thiel, *Epistolae Romanorum Pontificum genuinae et quae ad eos scriptae sunt...*, Braunsberg: E. Peter, 1867-68 (reprint 1974), 505-506, fragments 41-43.

<sup>76</sup> Among the Visigothic formulae is one claiming the pursuit of a runaway slave. Gil, “Formulae”, 100.

<sup>77</sup> Thiel, *Epistolae*, *passim*.

<sup>78</sup> In Book I, they refer to their non-ordination while in Book III they are not even contemplated as servants of the Church. Scherer, “Looking over the Editor’s Shoulder”, 139. The chapter is mentioned again in *Excerpta* I, 34 in which it is indicated that they should not be ordained clerics or bishops, although Martínez Díez, CCH, *Colecciones derivadas*, I, p. 303 confuses the numbers and says that it does not appear. In Book III, 43,2, CCAEA, fol. 227r-v.



The injunction not to incur this risk is extended to all Church authorities –bishop, priest, deacon or abbot– who are prohibited from prioritizing the assignment of these persons to Church service instead of returning them to their legitimate masters or patrons. In order to admit them, either a letter of manumission sanctioned by their master is required, or else an express donation to the Church that leaves no doubt as to the master's acquiescence.<sup>79</sup> But a dual purpose was also established for these people: they could become servants of the Church but also part of the religious communities. This suggests that the latter might have problems in recruiting new converts or monks, and that they might resort to manumission to incorporate these freedmen into the ecclesiastical ranks, as had been done in previous periods.

The reference to all the ecclesiastical authorities may be justified by the bishop's difficulty in controlling all the actors: the abbots, much more independent and generally located in rural areas, were more easily able to take in such fugitives, although they risked reprisals in the form of attacks by the Muslim lords, which would not be uncommon in the conflictive period of the Taifas. On the other hand, monasteries under the authority of a bishop could more easily refuse to give shelter to lay people, whether Christian or Muslim.<sup>80</sup> The constant passage of Muslim troops through some of these enclosures, –where they were fed, as in San Zoilo de Armila, next to the river known today as Guadalmellato (*flumen armilatense* in the sources), near Cordoba– where they used to rest after their first campaign journey from Cordoba, and which hosted festivities shared with the Muslims,<sup>81</sup> meant that fugitives could easily be discovered, with the resulting problems for the Andalusí Christians.

But even though leaving their servile condition was not encouraged –a fundamental requirement to avoid becoming a public problem for Islamic society– the Church was willing to go beyond the limits allowed by the clientage of its own freedmen. It is clear that ecclesiastical protection could be advantageous in an Islamic context, and this was recognised in canon 6 of the Council of Toledo IV when it exhorted the authorities should not only they take care of their freedmen, but that anyone who had been manumitted and had been entrusted to the Church would remain under the protection of the bishop. This was possible if the manumission was carried out “in ecclesia” (i.e. within a church building, where it was recorded), and the bishop would see to it that the king (*malik*) did not hand him over to another master.<sup>82</sup> This personal protection provided by the bishop is interesting as it reopens another field of case studies: it could be debated whether these individuals then became personal clients of the bishop or the Church, and what the real capacity for mediation by a bishop was within the Islamic courtly environment. The reference to the king here can be read as an anachronism, based on the original law –even though the Visigothic king was no longer present– or as an update of the law, intended for use within the context of a Taifa governed by a king without a higher title. On the other hand, according to Maliki treatises, when the master who granted a manumission was not a Muslim, the right of patronage over the freedman reverted to the public treasury (*bayt al-māl*).<sup>83</sup> This is the reason for insisting on claiming the patronage of the bishop for all those who had received manumission within the Church, using the old figure of manumission “in ecclesia” to legally secure the position of the freedmen within the Church.

This defence of the freedmen was then extended to all members of the Church, as found in a canon which is reworked and considerably longer than the Latin original. It already specifies the possible problems that could be encountered by the freedman who had not yet made the aforementioned recognition of patronage by public profession before the ecclesiastical judges, who could see his *peculium* reduced or his land of sustenance occupied by his former masters or any other one.<sup>84</sup> To conclude this title, it insists on punishing with ecclesiastical measures anyone who “attempts to reduce to servitude, gift or colonial condition those manumitted in the Church or entrusted to it by will”.

Although it appears tangentially in the sources, the status of settler is only mentioned in passing in the CCAEA. In Roman law, this term was used to refer to a tenant farmer who was tied to the land and, at times, to those who had to assume tax burdens and provide services to the landowner. From the Visigothic period onwards, the actual situation of this group became assimilated in its economic capacity to slavery and, even more so, to the figure of the freedmen who maintained their clientele with their former masters through the exploitation of certain plots of land that had been granted to them.<sup>85</sup> The translation of the figure of the colonist in the *Leiden Glossary* as “tenant/lord of the land and owner” (*āmīr al-arḍ wa-ḥāriz*) reflects the possession of the same land with respect to the usufruct that the freedmen would have by means of the enfiteusis.<sup>86</sup> Other Visigothic sources state that at the time of manumission, the farm (*colonica*) already possessed by the slave could be granted, probably in the form of *peculium*.

<sup>79</sup> Canon 16 of the *Decretum generale* by Gelasius I, in the ed. of Thiel, *Epistolae Romanorum Pontificum* I, 371-372, entitled *Gelasius Epistola XIV Gelasii Papae ad universos episcopos per Lucaniam, Brutios et Siciliam constitutos* (11 March 494). CCAEA, fol. 227r-v.

<sup>80</sup> CCAEA, fol. 114r. Council of Chalcedon, 24, 11; Agde 27, 30.

<sup>81</sup> Ana Echevarría, “Translocating Religion in the Mediterranean Space: Monastic Confrontation under Muslim Dominion”, in *Locating Religions. Contact, Diversity, and Translocality*, Reinhold Glei-Nikolas Jaspert (eds.), (Leiden: Brill, 2016), 94-122.

<sup>82</sup> Manumission “in ecclesia” had been much debated during the Visigothic period, allowing escape from the family networks of the aristocracy, see Flechner, Roy and Janel M. Fontaine. “The admission of former slaves into churches and monasteries: reaching behind the sources.” *Early Medieval Europe* 29 (2021): 586-611. In the Andalusí period it could have been an instrument to guarantee the protection of the Church for freedmen's families in times of disgrace of the lord. CCAEA, fols. 227v-228r

<sup>83</sup> Aguirre Sádaba, “De esclavos a libertos”, 30.

<sup>84</sup> Council of Agde I, c. 29, which is almost twice its length. CCAEA, fol. 227v.

<sup>85</sup> The only important difference would be that the *peculium* was of free use by the colonist. Sirks, “The Colonnate”, 138, 140.

<sup>86</sup> D'Ottone-Wibier, “Visigothic Law”, 216.

## Conclusion

As a final thought, it is worth considering to what extent the Andalusí Christians were part of the Andalusí economy –explained as tributary and mainly urban– or whether they highlight the limitations of a model that is not fully functional. Can it be said that the Andalusí Christians participated in a slave society where slaves and dependent freedmen formed the majority of the labour force on their rural estates? The situation of Andalusí Christian dependents as the bottom rung –with various overlapping social groups involving bishops, governors, Taifa kings, and ultimately a potential Caliph– far exceeds in complexity the “State-peasant” relationship that was initially proposed.<sup>87</sup> It is not surprising, then, to find the account transmitted by Ibn Hawqal (d. 988) regarding the existence in al-Andalus of farms worked by thousands of peasants who were ignorant of all aspects of urban life and were Christian *rūm* who rebelled at times and took refuge in a *ḥiṣn* where it was difficult to subdue them.<sup>88</sup>

But there are also other important questions that arise, such as how to acquire unfree workforce for ecclesiastical properties in order to be able to continue the established system if the spoils of war were no longer accessible to them and donations were diminishing. If the Church gained enough money to invest in the ransom of Christian captives, it is possible that the latter would have to pay back their freedom through dependent work. The regulations of the CCAEA seem to indicate a concern for the maintenance of unfree labour within the ecclesiastical domains, contemplated as pious endowments (*aḥbās*) for the upkeep of churches and monasteries. The transfer of property to the Church through donation could also be carried out *ius precarium*, to evade confiscation by the fisc and the impossibility of leaving them as an inheritance to one’s children, which allowed for a safeguard in politically insecure situations. The donation could allow the family to enjoy the usufruct; or if their entry into the Church was secured, it ensured their dowry and the subsequent enjoyment of their property.<sup>89</sup> This created a system for the perpetuation of the political and spiritual elite that was practiced both in the Visigothic period and –given the repetition of the rule– possibly in the Andalusí period as well. This would also allow for the entry of a number of unfree individuals and freedmen under the power or patronage of the Church, enabling the system to keep functioning. To continue working along these lines, it is necessary to locate new sources to complement those currently available to us.

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<sup>87</sup> For a recapitulation of these positions, see the recent work by Eduardo Manzano Moreno, “Los procesos de configuración de la sociedad de al-Andalus en época omeya”, in *Una nueva mirada a la formación de Al-Andalus: la arabización y la islamización desde la interdisciplinariedad*, Eneko López Martínez de Marigorta (ed.), (Vitoria: Universidad del País Vasco, 2022), 193-207.

<sup>88</sup> Muḥammad Ibn Hawqal, *Configuración del mundo: fragmentos alusivos al Magreb y España*, Trad. María José Romani Suay (Valencia: Anúbar, 1971), 63.

<sup>89</sup> “Usumfructum in dies uite mee, quod pro traditione legibus constat, liberum (?) mihi prebeunt”, Corcoran, “Donation and Will”, 218; Fernandez, “Testators”, 372.

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