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Morisco Migration: A Comparative Study of Al-Maghrawi and Al-Wansharisi's Fatwas

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Abstract:	Article info
<p>During the <i>Reconquista</i>, the Muslims of Al-Andalus lost their final stronghold with the Fall of Granada. Subsequently, the city's Muslim inhabitants were subjected to systematic forced displacement and compulsory conversion. This compelled them to migrate toward neighboring regions in search of sanctuary from persecution and institutionalized oppression. They departed with the lingering hope of returning to their homeland to live in peace, fleeing the hostility of the Catholic Monarchs and the Inquisition. The latter enforced a series of royal decrees and legislation mandating either the execution of those who resisted conversion or their total expulsion from the Iberian Peninsula.</p> <p>In the midst of these humanitarian violations, the Moriscos sought theological guidance from jurists (<i>fuqaha</i>) to find a legal (<i>shari'i</i>) resolution to their plight and to address their hesitation regarding the choice between emigration (<i>hijra</i>) or remaining in Andalus. Upon presenting their predicament to the scholars of the Maghreb, several <i>fatwas</i> (legal opinions) emerged: some strictly exhorted them to emigrate, while others advised those unable to do so to preserve their Islamic faith internally and practice their beliefs in secrecy.</p>	<p>Received: 06/02/2026</p> <p>Accepted: 13/04/2026</p> <p>Key words:</p> <ul style="list-style-type: none"> ✓ Al-Andalus ✓ The Inquisition ✓ Fatwas ✓ Emigration

Introduction

The Morisco inhabitants of the Iberian Peninsula endured a tragic and perilous existence throughout the 16th century, catalyzed by the Spanish Christians' attempts to forcibly convert them to Christianity. This systemic racial and religious persecution compelled many into displacement and forced migration across borders. For the duration of that century, they lived a dual existence-professing Christianity outwardly while remaining Muslims in secret-amidst successive state-mandated attempts at assimilation. These efforts were driven by royal decrees and the hegemony of the Inquisition, which employed terror tactics such as execution, torture, and arbitrary surveillance. Ultimately, this era culminated in the mass expulsion of the Moriscos from the Iberian Peninsula toward the Maghreb, Egypt, and the Levant, following Spain's definitive 1609 edict (1017 AH) mandating their total banishment.

During this period of upheaval, the Moriscos sought spiritual fortitude to remain steadfast in their Islamic faith. They turned to the *fatwas* (legal opinions) of jurists both within and outside Al-Andalus to seek a legitimate *shari'i* resolution to their catastrophe and to resolve their indecision regarding emigration versus remaining under Christian rule. Addressing the question of migration under such dire circumstances was an arduous task for the scholars of the era. Consequently, several landmark legal opinions emerged, most notably those of al-Wansharisi and al-Maghrawi.

This research aims to examine and analyze these perspectives, centering on the following inquiry: What was the core substance of the fatwas issued by al-Maghrawi and al-Wansharisi regarding the obligation of emigration versus the permissibility of remaining in Andalusia? Furthermore, where do the fundamental distinctions between these two legal positions lie? These questions shall be addressed in detail within the following chapters of this study.

1. The Condition of Andalusian Muslims Post-Fall of Granada

Scarcely seven years had passed since the fall of Granada before the Spanish authorities began compelling Muslims to convert to Christianity, systematically violating the established treaty terms (Al-Shattat, 2001, p.96). By 1494, a massive campaign of coercion was initiated to force conversion, while the Inquisition (Bishtawi, 1983, pp. 215-241) expanded its operations throughout Muslim territories in Al-Andalus. In 1501, a royal decree was issued presenting Muslims with a definitive ultimatum: convert to Christianity or depart from the land (Al-Shattat, p.6).

This was followed by the closure of mosques, the burning of manuscripts, and the infliction of severe torture upon the Muslim population. They were prohibited from speaking Arabic or communicating with fellow Muslims in North Africa. Beset by death and humiliation, they faced mounting aggression from the Christian population, the imposition of exorbitant taxes, and the silencing of the *Adhan* (call to prayer) in mosques (Al-Najdi, 1991, p.260). In essence, those who came to be known as Moriscos¹ a term used by most historians regarding the post-Granada era (Yahyawi, 2004, p.41). suffered continuous and

multifaceted assaults, including verbal abuse, economic exploitation, and the forced unveiling of their women (Hurtz, 1988, p.30).

While the term "**Morisco**" remained in use until the final expulsion in 1609, reflecting a political attempt to uproot Islamic influence from Spain, the Muslims did not adopt this label themselves. Instead, they referred to themselves as "The **Strangers**" (*al-Ghuraba*)², as they had truly become alienated from their faith and civilization within the Christian environment in which they resided. (Yahyaoui, 2004, p.41).

The Spanish treatment of Andalusian Muslims continued to deteriorate. The Catholic Monarchs issued orders mandating either the execution of those refusing conversion or their expulsion from Al-Andalus. From that point forward, the systematic exclusion of Muslims from their homeland in the Iberian Peninsula persisted (Hatamleh, 2000, pp.689-690).

The tragedy of the Moriscos was exacerbated by the collaboration between the monarchy and the Inquisition to pressure them into "**bitter-pill**" choices: either accept conversion and assimilation or face exile, punishment, and constant surveillance. This relegated many to living as strangers within their own country, stripped of all rights solely due to their Islamic faith. In this regard, historical records note:

"...Whoever wishes to baptize his son may do so, and whoever does not wish to do so is free... but those who baptize their children and accept the Catholic faith voluntarily must demonstrate this publicly; they shall be compelled to confess and perform all Christian rituals, and their domestic lives shall be monitored, with a warning that any departure from Catholicism will be met with severity and punishment... As for those who do not baptize their children, they shall be identified by their hostility and regarded as Muslims; wherever they are found, they must be monitored by soldiers, and their judges and rulers shall be Christians..." (Hurtz, 1988, pp.87-88).

Consequently, and following the subsequent decrees for the final expulsion of the remaining Mudéjars³ in 1610, a number of Muslims feigned allegiance to the Spanish Crown and the Christian faith while inwardly nullifying those beliefs. Though they were labeled Moriscos, they remained targets of persecution, existing in a state of dual religious practice: observing Christian rites publicly while practicing Islam in secret (Al-Madani, 2007, p.44).

The Inquisition was established under the pretext of protecting the Christian faith from Muslims and "**infidels**" (Yahyaoui, 2004, p.48). However, it was the perceived ingenuity and resilience of the Morisco people that led Spanish policy to view them with apprehension and target them for forced conversion. Faced with this reality, the Moriscos found themselves at a crossroads with three options: sincere conversion to Christianity, outright rejection of conversion and acceptance of the consequences, or outward compliance with conversion while maintaining their faith in secret (Yahyaoui, 2004, p.40). Most chose the third path, though it was an arduous endeavor within a hostile Christian society.

A key factor in the Moriscos' steadfastness was the continued role of jurists, both within and outside Al-Andalus, in providing spiritual stability. They issued *fatwas* that

either exhorted the people to emigrate-such as al-Wansharisi's legal opinion on the obligation of *hijra* (migration)-or advised those unable to migrate to preserve Islam internally and practice their beliefs in secrecy, as seen in the *fatwa* of al-Maghrawi.

2. Biography of al-Wansharisi

Abu al-Abbas Ahmad ibn Yahya ibn Muhammad ibn Ali al-Wansharisi was of Tlemcenian origin and upbringing, though he lived and was eventually buried in Fez (al-Kattani, 1982, p. 1122). Born in the Ouarsenis Mountains of western Algeria in 834 AH (1430 AD), he was raised in Tlemcen under the patronage of the Zayyanid Dynasty. There, he studied under its most prominent scholars before migrating to Fez. In Fez, he engaged deeply with the local intelligentsia, contributing to various scientific disciplines and teaching Maliki jurisprudence (Abu Mustafa, 1997, pp.5-6).

Al-Wansharisi was a profoundly versatile scholar and jurist, specializing in Sharia sciences and the foundations of jurisprudence (Usul al-Fiqh) (al-Tunbukti, 1351 AH, pp.87-88; al-Tilimsani, 1986, p.53). He passed away in 914 AH (1508–1509 AD) at approximately eighty years of age. The intellectual significance of Nawazil⁴ is best exemplified in his seminal work: "**Al-Mi'yar al-Mu'rib wa al-Jami' al-Mughrib 'an Fatawi' Ulama' Ifriqiya wa al-Andalus wa al-Maghrib**" (The Clear Standard and the Maghribi Compendium of the Fatwas of the Scholars of Africa, Andalus, and the Maghreb). This work is distinguished by its reliance on the foundational texts of the Maliki school and the legal opinions of the most eminent jurists of his era. His other notable works include *Idah al-Masalik ila Qawa'id Madhhab Malik* and *Al-Faruq fi Masa'il al-Fiqh* (Abu Mustafa, 1997, pp.5-6).

3. Introduction to the Al-Mi'yar al-Mu'rib

Al-Wansharisi's compendium, commonly known as Al-Mi'yar, is considered one of the most prestigious and authoritative sources of Maliki jurisprudence, serving as a cornerstone of legal practice in the Islamic West for centuries. Consequently, analyzing Al-Mi'yar is essential when addressing the history of fatwas and nawazil, as it encapsulates critical jurisprudential and intellectual characteristics. Spanning twelve volumes, the work documents legal cases that arose primarily in the 9th century AH (15th century AD) across the four Maghreb regions. It remains a primary reference for muftis due to its vast legal material and the author's meticulousness in detailing the methodologies of legal deduction (*istinbat*).

In compiling his fatwas, al-Wansharisi relied on a diverse array of Maliki texts, ranging from the foundational Ummahat (mother books) to various abridgments (*mukhtasarat*) in both theoretical principles and applied branches. For the regions of the Lower and Middle Maghreb, he drew heavily from earlier nawazil collections, most notably those of the Kairouanese jurist Abu al-Qasim al-Barzali (Abu Mustafa, 1997, p.7).

Furthermore, when Al-Mi'yar is subjected to a critical historical reading, it underscores the contemporary relevance of "**renewing religious edicts**." Since jurisprudence is a vital pillar of the civilizational identity of human societies, any vision for a nation's future cannot

ignore its legal heritage, as it constitutes a core component of collective memory. What is striking in al-Wansharisi's work is the acute awareness among jurists of the dynamic nature of reality, allowing them to provide legal solutions that fostered social equilibrium and resilience.

The book contains a massive collection of fatwas, characterized by their departure from abstract theory in favor of reflecting the lived reality of Maghrebian society. This rich material compelled jurists and judges to engage in Ijtihad (independent legal reasoning) to derive rulings based on the Quran, the Sunnah, and the prevailing Maliki tradition (Abu Mustafa, 1997, pp.7-8). Al-Mi'yar al-Mu'rib was first published in Fez (1314 AH/1879 AD) and later in Beirut (1401 AH / 1981 AD) in a 13-volume edition.

Al-Wansharisi's rigorous training and mastery of the Maliki school allowed him to make extensive use of the Al-Fardisi family library in Fez. He began extracting and synthesizing this material in (890 AH /1485 AD), completing the task shortly before his death. His work was not merely a compilation; he categorized, annotated, and enriched the fatwas with citations and foundational grounding as required by the context. He paid particular attention to the plurality of opinions arising from diverse local customs ('urf), demonstrating a clear inclination toward weighing (tarjih) and critiquing various views. These qualitative contributions bestowed upon Al-Mi'yar an immense referential value, turning it into a vital instrument for North African jurists in both academic and judicial spheres for centuries.

Beyond its legal merit, Al-Mi'yar serves as a precise historical document that aids in understanding the social fabric of the medieval Islamic West. The inquiries posed to the jurists illuminate the daily problems, anxieties, and systemic values of Maghrebian societies. Orientals such as Lévi-Provençal and Salvador Vila recognized the profound value of these nawazil works as primary sources for studying the civilizational history of Islamic societies (Abu Mustafa, 1997, pp.8-9).

4. Al-Wansharisi's Fatwa to the People of Andalus

4.1. The First Fatwa⁵: 890 AH / 1484 AD

Prior to the fall of Granada in 1492, al-Wansharisi issued his first legal opinion regarding Andalusian refugees who had migrated to the Maghreb. These migrants found that the reality of their lives in North Africa did not match the idealized sanctuary they had envisioned, leading many to regret leaving their homeland (Razouq, 1988, p. 14). Some went so far as to disparage the "**Abode of Islam**" (Dar al-Islam) while praising the "**Abode of Infidelity**" (Dar al-Kufr) and its people, with some even considering appealing to the King of Castile for permission to return.

Al-Wansharisi responded to this development with severe condemnation, stating:

"...Regarding what you mentioned of these migrants who regretted their emigration after arriving in the Abode of Islam, which is the Maghreb... their foul speech, their cursing of the Abode of Islam, and their longing to return to the land of polytheism

and idols-along with other reprehensible intentions that only stem from the ignoble-subjects them to disgrace in this world and the hereafter. It is incumbent upon those whom God has empowered in the land to apprehend these individuals and subject them to the harshest penalties-including beating and imprisonment-until they cease violating the boundaries of God. Indeed, the sedition (fitna) they sow is more harmful than the trials of hunger, fear, or the loss of life and property" (al-Wansharisi, 1981, pp.119-132).

In this fatwa, al-Wansharisi maintains that emigration (hijra) is an obligatory duty from any land ruled by "**the tyrant**" (infidel rulers), and returning to such lands is strictly prohibited unless they are reconquered by Muslims. He rejects any economic justifications, such as seeking livelihood or wealth, as valid excuses for remaining under non-Muslim rule. He argues that returning to the lands of infidelity constitutes a transgression against God's limits, mandating that rulers punish and detain such individuals until they repent. He writes: "**Emigration from the land of infidelity to the land of Islam is an obligation until the Day of Resurrection. This duty is never waived for those whose strongholds and lands have been seized by the tyrant, except in cases of total and absolute incapacity... any other excuse is considered null and void in the eyes of the Sharia**" (al-Wansharisi, 1981, pp.119-132).

Al-Wansharisi grounds his rigorous stance in several primary sources: From the Holy Quran: He cites Surah Al-Imran (Verses 118-119), which warns believers against taking "**intimates**" (bitanah) from outside their faith who desire their ruin, and Surah An-Nisa (Verse 98), which limits the exemption from migration only to the "**oppressed men, women, and children who cannot devise a plan nor find a way.**"

From the Prophetic Sunnah: He references the Hadith where the Prophet Muhammad (PBUH) stated: "**I am free from any Muslim who resides among the polytheists,**" and "**Migration does not cease until repentance ceases, and repentance does not cease until the sun rises from the west.**"

Scholarly Consensus (Ijma'): He reviews the rulings of esteemed scholars, including Qadi Abu al-Walid ibn Rushd, who asserted in the Book of Migration that it is a consensus that a Muslim must not reside in the Abode of Infidelity where the laws of polytheists apply. He also cites Ibn al-Arabi's Ahkam al-Quran, which categorizes migration into six types, the first and foremost being the mandatory departure from the Dar al-Harb (Abode of War) to Dar al-Islam.

He also reviewed the legal rulings of Muslim scholars, among whom he cited the opinion of Qādī Abū al-Walīd Ibn Rushd, who stated at the beginning of Kitāb al-Hijra that the obligation of migration (Hijra) has not lapsed; rather, migration remains binding and obligatory until the Day of Resurrection. By the consensus of Muslims, he affirmed that anyone who embraces Islam in a land of disbelief (dār al-kufr) is not permitted to remain there where the laws of the polytheists are applied to him, but is instead obliged to migrate and join the land of the Muslims (dār al-Islām), where Islamic rulings are applied to him (al-Qurṭubī, 1988, pp. 151–154).

He further supports this view by citing Ibn al-‘Arabī in his work *Aḥkām al-Qur’ān* (Ibn al-‘Arabī, pp.611–613), where he states that migration is divided into six categories. The first is migration from the land of war (dār al-ḥarb) to the land of Islam (dār al-Islām), which was obligatory during the time of the Prophet (peace be upon him). This form of migration remains obligatory until the Day of Resurrection. Likewise, migration from a land in which what is unlawful predominates is required, for God has forbidden Muslims from residing among the polytheists in Mecca.

Al-Wansharisi's ruling was notably "**stern**" regarding the Moriscos; he effectively deemed those who refused to migrate and insisted on remaining under Christian rule as having fallen into disbelief (kufr). He also advocated for the discretionary punishment (ta'zir) of anyone who disparaged the Maghreb or looked back longingly at the lands of infidelity. As noted by Dr. Nasir al-Din Sa'dallah, this fatwa is considered the oldest known Maghrebi text addressing this specific historical dilemma (Sa'dallah, 1998, pp.55-56).

4.2. The Second Fatwa (Reaffirming the Obligation of Emigration, 901 AH/ 1495 AD)

Al-Wansharisi denounced remaining in the lands of infidelity and urged the necessity of emigration. He issued a fatwa on the impermissibility of residing in the Dar al-Kufr (Abode of Infidelity) regarding an Andalusian man who sought the jurists' approval to stay in Al-Andalus to assist his vulnerable brethren, act as their spokesperson before the Spanish authorities, and engage with their leaders. In this regard, he stated: "**The pretext for the residency of the aforementioned virtuous individual-claiming the purpose of translating between the tyrant and his subjects among the Mudejars (al-Dajn) and the defiant -does not absolve one from the obligation of emigration, nor can its opposition be conceived... as to its status as an obligation, except by one who is negligent, or an ignorant soul of inverted disposition, possessing no expertise in the tenets of Sharia. Indeed, cohabiting with those other than the People of the Book (al-Dhimma) is neither permissible nor lawful for a single hour of the day, due to the religious and worldly impurities and evils it produces...**" (Al-Wansharisi, 1981, pp.97-99).

He also emphasized the obligation of emigration due to its link to sound creed, stating after an extensive presentation of the principles of Islam: "**How then can a practitioner of law hesitate, or a pious person doubt the prohibition of this residency, given its inherent violation of all these noble and majestic Islamic principles?**" (Al-Wansharisi, 1981, p.100).

From the foregoing, we conclude that Al-Wansharisi ruled on the prohibition of staying in the Dar al-Harb (Abode of War) and made emigration mandatory. It is an obligation upon every capable individual, with the exception of the incapable, such as the sick or the captive. Furthermore, he held that what safeguards a Muslim's soul is Islam, and what safeguards his wealth and children is the "**Abode**" meaning the Dar al-Islam-so that they are withheld from the infidel, and the Muslim remains protected and secure in his property, honor, and children within the land of Islam. He also maintained that it is

impermissible to submit to the rulings of infidels and their judges. This is evident through the following: In *Riyad al-Nufus fi Tabaqat 'Ulama' Ifriqiya* by Abu Muhammad bin Abdullah al-Maliki, Sahnun said: Abu Muhammad Abdullah bin Farrukh and Ibn Ghanim, the judge of Ifriqiya-both of whom were narrators of Malik-disagreed. Ibn Farrukh said: **"A judge should not accept an appointment if an unjust ruler appoints him."** Ibn Ghanim said: "He may accept the appointment even if the ruler is unjust." They wrote to Malik regarding this, and Malik said: **"The Persian (meaning Ibn Farrukh) is correct, and he who claims to be an Arab (meaning Ibn Ghanim) is mistaken"** (Al-Ru'ayni, 2002, p.99).

He further maintains that cohabiting with infidels, mingling with them, and residing among them is impermissible because it corrupts acts of worship and renders them deficient in the lands of infidelity. This leads to deficiencies for the Moriscos in purification (tahara), prayer, zakat, fasting, Hajj, Jihad, and the upholding of God's word; thus, this residency is illegitimate because it contradicts the legal principles of Islam. Additionally, Al-Wansharisi feared that Christian customs might one-day triumph over Muslims, particularly in dress and language; if a Muslim loses the Arabic language, he has effectively lost his worship and everything related to it. We find this same idea repeated among the Moriscos: preserving the Arabic language is part of preserving Islam and the fear of God (Sebbagh, 1983, pp.46-48).

In examining the substance of Al-Wansharisi's fatwa, we find those who oppose his stern and sharp stance toward the emigrating Moriscos, which brought upon him preconceived judgments that necessitate pausing at the difficult and miserable conditions these individuals endured within their homeland and from their own kin. Among these examples is Hussein Mounis, who says: **"This Sheikh, who undertook to offer an opinion on the fate of the Muslims remaining in Andalus, did not bother, while sitting to write this fatwa, to research the conditions of those he was judging, investigate their news, or identify the reasons that forced them to stay in Al-Andalus and prevented them from emigrating to the Maghreb. He failed to mention that they were, first and foremost, weak human beings for whom it was difficult to leave their homelands."** He adds: **"...The weak outnumber the strong, and those incapable of journeying and emigrating are the vast majority. The fatwa of Al-Wansharisi and its like had the worst impact on the fate of the remaining Islamic communities in Andalusia, as it condemned them to infidelity..."** (Al-Wansharisi, 1981, p.132).

4.3. His View on Practicing Religious Rituals in the Land of Infidelity

Al-Wansharisi holds that cohabiting, mingling, and residing among infidels is impermissible because it corrupts acts of worship and renders them deficient. He cited several rituals that become invalid or deficient in the land of infidelity, including:

- ✓ Upholding the Word of Truth and Islam: Bearing witness to the truth is relegated to the lowest status in the land of infidelity, which contradicts Sharia principles.
- ✓ Prayer requires complete ritual purity (tahara) along with the recitation of the Shahada in honor and veneration; in the land of infidelity, purity is diminished, and impurities (anjas)

increase due to mingling with them, alongside being subjected to mockery, disdain, and contempt.

- ✓ Zakat: It is well-known that Zakat is a pillar of Islam and must be delivered to a Muslim leader (Imam); it is not permissible to give it to infidels. Thus, Zakat is invalid without the fulfillment of its conditions and the presence of its rightful recipients.
- ✓ Fasting: As a pillar of Islam, its beginning and end depend on the sighting of the crescent moon, and sometimes on testimony (shahada), which can only be established before Imams and their deputies.
- ✓ Hajj: Although it is based on capability, he who neglects it while being a free person capable of emigration is regarded as one who has abandoned it intentionally and by choice. (Sebbagh, 1983, pp.46-47)

Through these reports, the deficiency of the Moriscos in matters of purity, prayer, zakat, fasting, Hajj, Jihad, and upholding the word of God becomes clear. Consequently, this residency is illegitimate as it violates the legal rules of Islam. Furthermore, Al-Wansharisi feared that Christian customs—particularly in dress and language—would one day prevail over Muslims. If a Muslim loses the Arabic language, he has truly lost his worship and everything associated with it (Sebbagh, 1983, p.48).

5. Abu Juma'a al-Maghrawi

He is the Maliki jurist Abu al-Abbas Ahmad bin Juma'a al-Maghrawi al-Wahrani, a scholar and reciter who completed his studies in Tlemcen and spent his subsequent career as a teacher in Fez. He is the author of the famous fatwa to the Moriscos of Andalus and the book *Jami' Jawami' al-Ikhtisar wa al-Tibyan fima Ya'rid bayna al-Mu'allimin wa Aba' al-Sibyan*, written around 898 AH /1493 AD. He died in 917 AH / 1511 AD. The title "**al-Maghrawi**" refers to Maghrawa, a Zenata tribe and one of the great Berber tribes of the Maghreb; from this, his affiliation with the well-known city of Oran is understood. The Al Shaqrun family chose the city of Fez as their place of migration over other centers of the Islamic West like Tlemcen after leaving Andalus because Fez, unlike those cities, enjoyed relative stability. Tlemcen at that time was caught in the tug-of-war between the Christians and the Ottomans, which led many of its people and those of Oran to migrate to Fez (Makhlouf, 1349 AH, p.123).

He was an adept exegete and traditionist, unrivaled in the sciences of eloquence, and he also spoke on astrology, mathematics, and human sciences. In addition to al-Jami', he authored other books such as *al-Jaysh al-Kamin fi al-Karr 'ala man Yukaffir 'Awamm al-Muslimin*, *Kifayat al-Muhtaj li-Ma'rifat man laysa fi al-Dibaj*, *Nayl al-Ibtihaj li-Ahmad Baba al-Tunbukti*, and others (al-Maghrawi, 2012, pp.15-22).

6. Fatwa of Abu Juma'a al-Maghrawi to the People of Andalus after the Fall of Granada (910 AH / November 26, 1504 AD)

Al-Maghrawi wrote his response to the Moriscos in 910/1504, most likely in Fez. The fatwa does not mention previous fatwas, judicial cases, or legal discussions on the

specific topic addressed; thus, it is difficult to determine the exact source of its ideas or its place in historical legal debates. However, attention to Islamic legal literature allows for a better understanding of the reasons underlying the fatwa. Although the term Taqiyya⁶ does not explicitly appear, the fatwa includes many relevant technical legal and doctrinal terms, including niyya (intention), ikrah (coercion), and the "**word of infidelity**" (kalimat al-kufr), while also referencing Quranic verses and Hadith reports that belong to the standard reference of textual evidence used in legal Taqiyya (Stewart, 2013, p.443).

Al-Maghrawi's fatwa provides a comprehensive exemption for the Moriscos to pretend to adhere to Christianity, allowing them to perform usually prohibited acts or neglect usually mandatory acts as long as they internally reject their outward actions and understand that the fundamental prohibitions and obligations still stand. Moriscos may drink wine or eat pork if forced; they may pray with Christians, utter infidel Christian doctrines, or insult the Prophet Muhammad (PBUH) if compelled to do so. They may dispense with the normal obligations of ablution and prayer if circumstances dictate; they can even marry their daughters to Christians if coerced, provided they maintain the conviction that this is normally prohibited. Harvey describes this fatwa as the "**primary theological document for the study of Spanish Islam**" in the period following the Reconquista and preceding the expulsions. Since 1964, this fatwa has been addressed in numerous studies regarding Morisco history and the status of Muslim minorities under non-Islamic rule (Stewart, 2013, pp.443-444).

Guadalajara y Xavier points to the Islamic doctrinal support for Taqiyya when writing about the difficulty of converting Moriscos into true Catholics: "**I would only like to mention, by the way, that with the permission and license granted to them by their cursed sect, they can pretend to follow any religion outwardly and without sin, as long as they keep their hearts devoted to their prophet. We have seen many of them die while worshipping the cross and speaking well of our Catholic religion, yet they were excellent Muslims internally**" (Guadalajara, p.99).

The principle of Taqiyya is based on the prevailing idea among Sunnis that internal convictions can differ from outward words and deeds, and a person should be judged on the former; thus, intention (niyya) is a fundamental concept in Sunni Islamic law. Without it, the performance of legal obligations is void. Perhaps the most famous Prophetic Hadith in this regard is: "**Actions are but by intentions,**" which is the first Hadith in Sahih al-Bukhari (al-Bukhari, 2002) and in al-Nawawi's famous collection The Forty Nawawi (al-Nawawi, 2007).

Generally, the belief held in the heart often contradicts the word uttered by the tongue and the action performed by the limbs (jawarir). There is a distinction between the outward or apparent meaning (zahir), which can differ entirely from the internal or hidden meaning (batin). Al-Maghrawi's fatwa asserts that it is not a person's actions that make them Muslim, but rather their internal state or intention. God cares more for the intentions of the believers than for their outward deeds. In a paraphrase of another famous Hadith: "**God does not look at your forms but at your hearts.**" One's beliefs or opinions about the law make one a Muslim, rather than success in applying its specific dictates. The essence of

belief is not adherence to the law itself, but adopting the correct opinion regarding it. Al-Ghazali discusses intention in detail in his book *Ihya' 'Ulum al-Din* (al-Ghazali), citing several Hadiths, including: **"Actions are but by intentions, and every man shall have but that which he intended..."** Actions are not judged except according to intentions. Furthermore, the Almighty says: **"Let not believers take disbelievers as allies rather than believers. And whoever of you does that has nothing with Allah, except when you take a precaution against them in prudence..."** (Surah Al-Imran, Verse 28). This prohibits the alliance with disbelievers due to kinship, friendship, or the like, so that love and hatred are only for the sake of God, and prohibits seeking their aid in conquest or other religious matters. It forbids allying with them outwardly and inwardly at all times except in times of fear, in which case showing alliance is permissible (al-Baydawi, p.12). What is meant by such alliance is outward interaction and sociality while the heart is secure in enmity and hatred, awaiting the removal of the obstacle (al-Zamakhshari, 1987, p.351). He also cites the Almighty's words: The Day every soul will find what it has done of good present [before it] and what it has done of evil, it will wish that between itself and that was a great distance. And Allah warns you of Himself, and Allah is Kind to servants." (Surah Al-Imran, Verse 30).

The concept of alliance under coercion advocated by al-Maghrawi is based on an explicit Quranic text: **"Whoever disbelieves in Allah after his belief... except for one who is forced while his heart is secure in faith"** (Surah Al-Nahl, Verse 106). The verse indicates the place of legal coercion, especially since the ally or the coerced is **"forced, compelled"** into their situation. It is mentioned that this verse was revealed regarding the companion Ammar bin Yasir and a group who had embraced Islam and were then tried by the polytheists regarding their religion; some remained steadfast while others succumbed to the trial. Those who stated this include: Ibn Abd al-A'la, from Muhammad bin Thawr, from Ma'mar, from Abd al-Karim al-Jazari, from Abu Ubayda bin Muhammad bin Ammar bin Yasir, who said: **"The polytheists took Ammar bin Yasir and tortured him until he agreed with some of what they wanted. He complained of this to the Prophet (PBUH), who asked: 'How do you find your heart?' He said: 'Secure in faith.' The Prophet said: 'If they return, then return [to what you said]'"** (al-Tabari, 2001, p.279; al-Qurtubi, 1964, pp.180-181).

The second narrative that frequently appears in commentaries on this verse concerns Musaylima, the false prophet of the Banu al-Harith who was a contemporary of the Prophet Muhammad (PBUH). He asked two Muslim captives to acknowledge him as a legitimate messenger of God alongside Muhammad (PBUH). One prisoner agreed, but the other did not answer, pretending to be deaf, and was killed as a result. When informed of the incident, the Prophet Muhammad (PBUH) approved of the actions of both captives, noting that one is permitted to conceal if his life is in danger, but is also free to choose the path of martyrdom. This narrative is mentioned in al-Shawkani's book: **"Ibn Abi Shayba reported from al-Hasan that Musaylima's spies took two men from the Muslims and brought them to him. He said to one: 'Do you bear witness that Muhammad is the Messenger of Allah?' He said: 'Yes.' He said: 'Do you bear witness that I am the Messenger of**

Allah?' He leaned toward his ears and said: 'I am deaf.' So he ordered him to be killed. He said to the other: 'Do you bear witness that Muhammad is the Messenger of Allah?' He said: 'Yes.' He said: 'Do you bear witness that I am the Messenger of Allah?' He said: 'Yes.' So he released him, and he came to the Prophet (PBUH), who said: 'As for your companion, he passed away upon his faith; as for you, you took the concession (rukhsa)'" (al-Shawkani, 2007, p.805).

These narratives appear in almost all well-known Sunni interpretations, including famous Maliki interpretations such as al-Qurtubi's al-Jami' li-Ahkam al-Quran. The key phrase **"and his heart is secure in faith"** appears in many Sunni jurisprudential discussions on Taqiyya and coercion, notably in the fatwa of Ibn Abi Juma'a al-Maghrawi.

Al-Maghrawi also provided suitable solutions to help the Moriscos practice the pillars of Islam hidden from the Christians, saying: **"...And emphasizing to you to remain committed to the religion of Islam, commanding those of your children who have reached maturity to do so. If you do not fear harm coming to you from informing your enemy of your true intent, then blessed are the strangers who set things right when people have become corrupt; indeed, the one who remembers God among the heedless is like the living among the dead. Know that the idols are carved wood and solid stone that neither harm nor benefit, and that sovereignty belongs to God. God has not taken a son, nor is there any deity with Him. So worship Him and be steadfast in His worship. Prayer, even by gesturing; Zakat, even as if it were a gift to your poor or for show, because God does not look at your forms but at your hearts; and washing from ritual impurity (janaba), even by swimming in the seas... and perform tayammum, even by wiping your hands on the walls... And if they force you at the time of prayer to prostrate to idols or attend their prayers, then initiate the intention (ihram) and perform your legitimate prayer to God, gesturing toward what they gesture toward of the idol while your intent is God... And if they force you to drink wine, drink it without the intention of using it; and if they impose pork upon you, eat it while rejecting it in your hearts and believing it to be prohibited... And if they marry their daughters to you, it is permissible for you as they are from the People of the Book... and you reject that in your hearts, and if you found the strength, you would change it..."** (Anan, 2007, pp. 343-344).

At the end of the fatwa, al-Maghrawi prayed for victory and the removal of injustice from the people of Andalusia, saying: **"I ask God to remove the hatred for Islam so that you may worship God openly by God's power without trial or fear... and we testify for you before God that you were truthful to God and pleased with Him"** (Anan, 2007, p.344). Through this fatwa, it is clear to us that al-Maghrawi does not emphasize the idea of emigration but rather calls for remaining in the land of Andalus and adhering to their religion in the Morisco manner-by embracing the Christian religion publicly and adhering to the Islamic religion secretly and covertly (Razouq, 1988, p.151).

7. The Distinction Between the Fatwas of al-Wansharisi and al-Maghrawi for the People of Andalus Following Their Crisis and the Fall of Granada

Initially, it can be said that there are many commonalities and shared foundations between the two muftis, al-Wansharisi and al-Maghrawi. The content of both missives revolves around a single issue and a shared legal predicament (*nazila*): the fall of Al-Andalus and the condition of the Andalusian Muslims who remained there. Al-Wansharisi responded to those who questioned the fate of that small group that preferred staying over fleeing, and whether the Sharia ruling regarding them mandated remaining or emigration—as was the case for the migrating majority. This is the same subject addressed in al-Maghrawi's letter.

Another common factor is that both were eminent figures of the region and jurists of the land—Algeria—one from the east and the other from the west. Additionally, both belonged to the same school of law, the Maliki school, and descended from the same Maghrebi school. Furthermore, they were contemporaries, living together during the 10th century AH.

Through our study of the subject and examination of both fatwas, we observe that al-Wansharisi was rigorous, rejecting the residency of the Moriscos in the lands of infidelity. He emphasized that emigration was an absolute obligation (*wajib*), asserting that remaining in the lands of infidelity was impermissible under any circumstances. He justified this by the harm, contempt, persecution, and injury to soul and property that Muslims would face, as well as the deficiency and nullification of acts of worship and the legal principles of the Islamic religion. However, he waived the obligation for those incapable, such as the sick, the frail, and the captive. He permitted residency in the Abode of Infidelity only for the purpose of guidance and proselytization to the religion of truth, under specific conditions. As for mingling and cohabiting with infidels, he did not permit it and forbade it, maintaining that a believer cannot ally with them or accept their rulings. Thus, the fatwa divides the Muslims in Andalus into two groups:

-The Capable: Those with the strength and ability to emigrate but who remained in Spain; these are the "defiant" (*'usat*) Muslims who committed a great sin and deserve temporary hellfire.

-The Vulnerable: Those with no power or means (*al-du'afa'*), who occupy the status of Muslims forced into outward disbelief (Sebbagh, 1983, pp.46-48).

He also viewed the worship of the Moriscos, such as prayer and zakat, as deficient; therefore, emigration was mandatory for them, and those who left the land of infidelity were not permitted to return. This is part of what appeared in Imam al-Wansharisi's fatwa: "The interest of religion takes precedence over the interest of the world, and it is mandatory to flee from a land dominated by polytheism and loss to a land of security and faith. There is no excuse for the capable; the excuse is only for the completely vulnerable and incapable who cannot devise a plan nor find a way" (al-Wansharisi, 1981, p.132).

In contrast, al-Maghrawi did not discuss emigration or residency in the lands of infidelity. Instead, he limited himself to facilitating (*taysir*) acts of worship for the Moriscos—such as prayer, zakat, and fasting—even if their conditions were not met, due to the lack of ability and through internal rejection (*inkar bi-al-qalb*), as they were coerced. In doing so, and contrary to al-Wansharisi's fatwa, he called upon the Andalusian Mudejars to remain in their homes and stand firm against the challenges directed at them. He permitted their residency in the Abode of Infidelity and provided an Islamic alternative for living within the Andalusian reality, considering the interests of both the homeland and the faith, thus combining both interests in his fatwa (al-Maghrawi, 2012, p.26).

However, al-Maghrawi's fatwa was later than al-Wansharisi's, as the former was in 910 AH and the latter in 891 AH. It is possible that al-Maghrawi's fatwa came after the doors of emigration had closed and the Moriscos were no longer able to leave the land of infidelity, and in light of the persecution and suppression they faced from the Inquisition and the close surveillance by Christians, to the point that they could only practice their religion through Taqiyya and Tawriya (dissimulation). He issued a fatwa based on opposing those who argued for the obligation of emigration from Andalus, believing that collective steadfastness was the only way to stop the danger. Therefore, he recommended remaining on the land regardless of the circumstances or the severity of the trials until God brings relief through the Ottoman Turks (al-Maghrawi, 2012, p.22).

Al-Maghrawi did not discuss the prohibition of residency in the land of infidelity in his fatwa, nor did he address this issue with precision. Instead, he facilitated worship for the Moriscos through Taqiyya, Tawriya, and concealment. This implies that he saw no harm in their remaining in the Abode of War, provided they maintained patience and committed to worship, even if only partially or without meeting all conditions due to the lack of suitable circumstances. This is evident in his statement: "**Blessed are the strangers who set things right when people have become corrupt, and the one who remembers God among the heedless is like the living among the dead**" (Sebbagh, pp.51-53).

- **Prayer:** To be performed even by gesturing (*ima'*), waiving purification with water in favor of *tayammum*, even by wiping hands on walls if pure earth is unavailable. It is also possible to gesture toward the earth without touching it, and to make up prayers at night if a suitable time is unavailable during the day. Prayer is waived if its conditions are unmet, or it can be made up later; the direction of the *Qibla* is also waived, similar to the "**Prayer of Fear.**"
- **Zakat:** To be presented as a gift to the poor or for show, as God does not look at your forms but at your hearts.
- **Attendance at Infidel Worship:** Such as attending services involving idols with the intention of praying to God.
- **Drinking Wine:** If forced, without the intention of consumption.
- **Eating Pork:** While rejecting it in their hearts and believing it to be prohibited.

- **Marriage to Christian Women:** Since they are of the People of the Book.
- **Marrying Muslim Daughters to Christians:** If coerced, while rejecting it in their hearts; if they found the strength, they would change it.
- **Dealing in Usury or Illicit Wealth:** Provided the illicit gain is then removed from the capital through charity.

If coerced into uttering foul language or blaspheming the prophets and messengers, they should practice Tawriya while rejecting what they say in their hearts (Sebbagh, 1983, pp.51-53).

Thus, it can be said that Imam al-Maghrawi possessed a consequentialist vision and a future-oriented structure. His position in his fatwa is supported by the attributes and objectives (*Maqasid*) of the Sharia, regarding its universality and influence. The universality of the Sharia necessitates expansion, not concealment or isolation. While Imam al-Wansharisi prioritized the aspects of corruption and characterized residency as preferring the world at the expense of religiosity and belief—which the scales of Sharia forbid—al-Maghrawi looked from a nuanced perspective. He favored a benefit viewed through the lens of outcomes (*al-Ma'al*) and identified utilitarian purposes that were absent from the minds of other Muslims, for whom travel to such lands would not be permissible.

CONCLUSION

Nearly all researchers of Morisco history in the Iberian Peninsula agree that these Andalusians, who were forcibly converted to Christianity and became known as "**The Strangers**" (*al-Ghuraba'*), lived an ambiguous existence. They balanced a compulsory adherence to Christianity with an eternal loyalty to Islam, living as Christians outwardly while remaining Muslims inwardly. They clung to this doctrinal duality throughout the sixteenth century, thwarting all projects for their integration, whether through violent or "**merciful**" means.

Furthermore, it is crucial to understand Morisco Islam, which appears to be a complex faith due to its dual nature. It was not merely a secret Islam but rather a concealed religion—a blend of Islamic and Christian elements. In this context, the Moriscos essentially represent the solution proposed by al-Wansharisi for the "**vulnerable**" (*al-du'afa'*). Thus, al-Maghrawi provided the theological foundation for this religious model: secret in the heart, Christian in appearance. This foundation, suggested by the first mufti and advocated by the second, is what is known in Islamic doctrine as the "**state of those coerced by force to utter words of denial.**"

Some Western historians have justified the expulsion of the Moriscos from the Iberian Peninsula in 1609 by citing their persistent adherence to Islam, noting that both the Crown and the Church lost hope in converting them into sincere Catholics whose loyalty to the Spanish state and the Catholic faith was beyond doubt. Yet, could these historians truly expect them, after such suffering, to establish friendly relations with those who killed

their children, enslaved their women, and drove them out? Indeed, many have followed this biased path, becoming excessive in their judgments and failing to adopt a correct, objective scientific method or a sound logic free from the prejudice that obscures historical truth.

Comments and Explanations

¹**Moriscos:** A name given to all Muslims who remained in Al-Andalus after the fall of Granada in 1492. It is a term derived from the word *Moro* (Moor), which is used in certain Spanish texts to refer to the Arabs and Muslims of Andalus (Dannun, 1988, p.71).

²**The Strangers (*Al-Ghuraba'*):** A designation given by al-Maghrawi to those Andalusian Muslims who remained steadfast in their faith. The Moriscos embraced this title, using it in their 1541 plea for assistance to Sultan Suleiman the Magnificent, writing: "**From your poor, stranger servants**" (Sebbagh, 1983, pp.50-51).

³**Mudéjars (*Al-Mudajjanun*):** Andalusian Muslims who, when the Christians conquered their lands, remained under their rule and chose not to depart for Islamic lands. The term is derived from *dajana*, meaning to become accustomed to a place or to dwell therein (Arslan, 1932, p.297).

⁴**Nawazil:** Refers to fatwas and legal occurrences; these are issues derived by later mujtahids when asked about matters for which no prior narrations from earlier scholars of the school existed. These are the cases and events upon which judges rule according to Islamic jurisprudence.

⁵**Manuscript Reference:** The first fatwa is found in a manuscript at the Escorial Library titled *Asna al-Matajir fi Bayan Ahkam man Ghalaba 'ala Watanihi al-Nasara wa lam Yuhajir'*(No. 1758, fols. 83-95). It was published by Dr. Hussein Mounis from Egypt in 1957 in the *Journal of the Institute of Islamic Studies* in Madrid, along with another fatwa by the same author on the same subject extracted from his massive collection of fatwas titled *Al-Mi'yar* (Sebbagh, 1983, p.46).

⁶**Taqiyya:** Literally "**caution**" or "**prudence**," it is an Islamic legal framework (*rukhsa*) allowing concealment in times of danger. It permits a legally responsible believer to perform certain acts under coercion that are usually prohibited, or to omit acts that are usually mandatory. *Taqiyya* is considered a symbol of the position of a persecuted and necessarily secret minority.

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