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“When the Husband Converts but the Wife Desists”: Husband-Only Conversion and Legal Discourse in the Eighth/Fourteenth Century

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Abstract

This article focuses on the importance that Islamic legal texts and prescriptive literature from the seventh/thirteenth and eighth/fourteenth centuries assign to the family, especially the mother, in forming religious identity. It approaches this question by analyzing the phenomenon of the non-converting family, or the family's retention of their Jewish or Christian religion after the father's conversion to Islam. The article describes and contextualizes instances in which the family did not convert along with the father against the background of seventh-/thirteenth- and eighth-/fourteenth-century Syria and Egypt. It summarizes some of the measures that were introduced to punish non-converting families of new Muslims and contrasts these with the rulings relating to conversion in an eighth/fourteenth-century legal compendium. The legal rulings focus on positive motivation to convert rather than punitive measures but reflect a similar concern to promote the conversion of the family as a whole. They also reflect a particular concern that the wife of the convert and mother of the household should convert, a feature which is related here to the influence that mothers are held to have exercised over the religious identity of the household.

Keywords

conversion – inter-religious marriage – Muslim – non-Muslim marriage – Ibn al-Qayyim – Mamluk period – inheritance – Islamic law

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1 Introduction

The Islamic conquests of the first/seventh and second/eighth century led to a steady stream of conversions to Islam in the conquered regions. Although there is less agreement about its rate and geographical distribution,¹ it is generally accepted that conversion to Islam led to majority Muslim populations in most regions under Islamic rule by the ninth/fifteenth century. However, most evidence for conversion refers to male conversion. Not only the literary sources, such as historical and legal texts, but also material sources like tombstones or archival documents, and the onomastic sources addressed by Richard Bulliet, refer almost exclusively to men.² This focus on male conversion is unsurprising, given the patriarchal orientation of the Islamic tradition,³ but it impedes our understanding of how Islam spread throughout the conquered regions nonetheless. Can we always assume that a reference to a man's conversion entailed that of his wife and household? This question was investigated by Tamer el-Leithy, who used the term single-generation conversion to describe the practice by which the head of the household would convert to Islam, but his wife and adult children would not, meaning that the religion of the family as a whole did not change.⁴ In the following I will not adopt Tamer el-Leithy's terminology, but will use the term husband-only conversion to reflect my focus on the wife's and the family's non-conversion, and the jurists' concern about this. The religion of the subsequent generations, although relevant to the concerns of the jurists,⁵ will not be investigated in this study. I will examine the practice of men converting to Islam while their wives retained their original Jewish or Christian religion and will contend that this was disliked in seventh/thirteenth

1 On the debate about the rate of conversion to Islam see Shaun O'Sullivan, "Coptic Conversion and the Islamization of Egypt," *Mamluk Studies Review* 10.2 (2006): 65–79; Thomas Carlson, "Contours of Conversion: The Geography of Islamization in Syria, 600–1500," *Journal of the American Oriental Society* 135.4 (2015): 791–816.

2 Yehoshua Frenkel, "Conversion Stories from the Mamluk Period," in: *Muslim-Jewish Relations in the Middle Islamic Period: Jews in the Ayyubid and Mamluk Sultanates (1171–1517)*, ed. Stephan Conermann (Göttingen: V&R UniPress, 2017), 92.

3 Uriel Simonsohn, "Female Conversion to Islam: A Sample Analysis of Medieval Narratives of the Prophetic Age," *Mediterranean Historical Review* 35.1 (2020): 9–25 at 9.

4 Tamer El-Leithy, "Coptic Culture and Conversion in Medieval Cairo, 1293–1524 A.D." (PhD dissertation, Princeton University, 2005), 67–100.

5 The measures targeting grandchildren of converts and the decrees about inheritance, which will be discussed in this article, were indeed aimed at changing the religion of the subsequent generations. However, the focus of this study is not how the person's conversion affected the future generations, but the fact that it was only the husband who converted, and the reason why jurists took exception to this, despite the fact that it was not illegal.

and eighth/fourteenth-century Egypt and Syria because of doubts about the convert's sincerity and because of the key role that the mother was awarded in the formation of her family's religious character.

The perception of women's influence over the religious orientation of their families is evident in other discussions of religious change. For example, one of the arguments for permitting a converted wife to remain with her non-Muslim husband is that her conversion to Islam will eventually bring about that of her husband,⁶ while Christian wives of apostates are often depicted as continuing their family's links to their former religion.⁷ This study develops the question of how far women's influence in the family was seen as an accelerator or brake to embracing the Islamic faith. In a volume about kinship and community, this question is also relevant to considering the complex relation between religious affiliation, family, and social authority.

I will begin by reviewing the socio-historical context and then summarize the evidence for husband-only conversion in this period. I will suggest that increased pressure to convert led to an increase in the practice of husband-only conversion. I will relate this to the continued relevance of religiously mixed households at a time when marriages between members of different faith groups seem to have been comparatively rare. In the next part of the study, I will outline the approach that legal scholars took to husband-only conversion and consider evidence that some scholars attempted to limit this practice or encourage the wives and families of the male converts to convert as well. Here I will pay particular attention to the Mamluk legal scholar, Ibn Qayyim al-Jawziyya (d. 751/1350) and his discussion of conversion in his legal compendium, *Aḥkām ahl al-dhimma*. In a final step, I will consider the rationale for attempts to limit husband-only conversion, relating this to women's religious agency in the eyes of jurists and legal authorities.

2 Husband-Only Conversion in the Seventh/Thirteenth and Eighth/Fourteenth Century

The seventh/thirteenth and eighth/fourteenth century in Egypt and Syria seem to have been a harsh period for *dhimmīs*, or the Jews and Christians living under

6 Antonia Bosanquet, "The kitābī Wife's Conversion to Islam: An Unusual Interpretation by Ibn Qayyim al-Jawziyya," *Islamic Law and Society* 27.3 (2019): 185–213.

7 Uriel Simonsohn, *Female Power and Religious Change in the Medieval Near East* (Oxford: Oxford University Press, 2023), 190.

Islamic rule.⁸ Historical accounts, such as al-Maqrīzī's (766/1364–845/1442) *Kitāb al-Sulūk li-ma'rifat dīwal al-mulūk* refer to the destruction of churches, the confiscations of non-Muslim *waqfs*, destruction of personal property and mob violence against Jews and Christians, and state oppression or exclusion of non-Muslims from public office.⁹ Although al-Maqrīzī was writing some time after the events that he described, and probably slanted his presentation to support the broader aims of his narrative, the overall picture that he presents is supported by other literary sources. For example, several legal texts from this period discuss the destruction of churches in detail, and promote harsher rulings than were previously relevant for this question.¹⁰ Luke Yarbrough's argument that the conditions for non-Muslims living under Muslim rule known as the *Shurūt ʿUmar* may not have been enforced under this appellation until the Mamluk period would, if correct, also support the view of the Mamluk

- 8 Mark Cohen, *Under Crescent and Cross: The Jews in the Middle Ages* (Princeton, NJ: Princeton University Press, 1994), 67; Norman Stillman, *The Jews of Arab Lands: A History and Source Book* (Philadelphia, PA: Jewish Publication Society, 1979), 68. Pauline Lewicka, "Did Ibn al-Ḥājj Copy from Cato? Reconsidering Aspects of Inter-Communal Antagonism of the Mamluk Period," in *Ubi Sumus? Quo Vademus?: Mamluk Studies – State of the Art*, ed. Stephan Conermann (Goettingen: V&R Unipress and Bonn University Press, 2013), 231; Ya'acov Lev, *Saladin in Egypt* (Leiden: Brill, 1999), 191–193; Dotan Arad, "Being a Jew under the Mamluks: Some Coping Strategies," in *Muslim-Jewish Relations in the Middle Islamic Period. Jews in the Ayyubid and Mamluk Sultanates (1171–1517)*, ed. Stefan Conermann, (Goettingen: V&R Unipress and Bonn University Press, 2017), 21–40. For a problematization (although not rejection) of this view see Nathan Hofer, "The Ideology of Decline and the Jews of Ayyubid and Mamluk Syria," in *Muslim-Jewish Relations in the Middle Islamic Period. Jews in the Ayyubid and Mamluk Sultanates (1171–1517)*, ed. Stefan Conermann, (Goettingen: V&R Unipress and Bonn University Press, 2017), 95–120.
- 9 For example, Tāj al-Dīn ʿAlī b. Muḥammad b. al-Durayhim, *Manhaj al-ṣawāb fī quḥḥ istiṭkāt ahl al-kitāb* (Beirut: Dār al-Kutub al-ʿIlmiyya, 2002), Shihāb al-Dīn Ghāzī b. Aḥmad Abū al-Wāsiṭī, *Radd ʿalā ahl al-dhimma wa-man tabiʿahum*, ed. Turkī b. Fahad ʿAl Saʿūd (Riyadh: Al-Jamʿiyya al-Tārikhiyya al-Saʿūdiyya, 2010), Muḥammad b. ʿAlī b. Naqqāsh, *Kitāb al-madhamma fī istiʿmāl ahl al-dhimma* (Beirut: Dār al-Kutub al-ʿIlmiyya, 2002); ʿUthmān b. Ibrāhīm al-Nābulusī, *Tajrīd sayf al-himma li-stikhrāj mā fī dhimmat al-dhimma*, edited and translated as *The Sword of Ambition. Bureaucratic Rivalry in Medieval Egypt* by Luke Yarbrough (New York: New York University Press, 2019). On these works see Luke Yarbrough, "A Rather Small Genre: Arabic Works against Non-Muslim State Officials," *Der Islam* 93.1 (2016): 139–169; Moshe Perlmann, "Notes on Anti-Christian Propaganda in the Mamlūk Empire," *Bulletin of the School of Oriental and African Studies* 10.4 (1942): 843–861.
- 10 Gowaart Van Den Bossche, "Destroying Churches by Performing Knowledge: Ibn al-Rifʿa's *Kitāb al-nafāʾis fī adillat hadm al-kanāʾis* (700/1301) and the Social Negotiation of Legal Authority," *Islamic Law and Society* 27.4 (2020): 297–324; Tamer El-Leithy, "Sufis, Copts, and the Politics of Piety: Moral Regulation in Fourteenth-Century Upper Egypt," in *Le développement du soufisme en Égypte à l'époque mamelouke*, ed. Richard J. McGregor and Adam Sabra (Cairo: Institut Français d'Archéologie Orientale, 2006): 75–119 at 76–82.

period as one in which the social status of Jews and Christians received particular scrutiny.¹¹

A flurry of polemical literature against Jews and Christians living under Muslim rule, particularly those working in Muslim state administration, indicate that edicts excluding non-Muslims from public office were relevant to wider anxieties around this topic.¹² Other texts by Muslim authors refer approvingly to the oppression of non-Muslims, while texts by Jews and Christians describe the oppression that non-Muslims experienced. Although restrictions of *dhimmī* participation in Muslim society occurred periodically throughout the history of the Islamic Empire, most of these episodes, like the harsher measures introduced by the Caliph al-Muqtadī (r. 467/1075–486/1094) in 484/1091,¹³ were relatively short-lived.¹⁴ By contrast, the oppression of non-Muslims in seventh/thirteenth and eighth/fourteenth-century Syria and Egypt, appears to have lasted for longer and to have derived from both state and popular pressure.

Many sources from the seventh/thirteenth and eighth/fourteenth centuries note a rise in conversions to Islam around this period. Researchers such as Gaston Wiet and Donald Little regard the Mamluk period as witnessing the last upheaval in the religious demographics of Egypt after the first wave in the third/ninth century, arguing that from this point onwards, the Christians and Jews were an almost insignificant minority.¹⁵ Their interpretation relies on al-Maqrīzī, among others, who attributes a peak in conversions to Islam to the eighth/fourteenth century and comments on the merging of lineages that

11 Luke Yarbrough proposes both the fifth/eleventh century and the Mamluk period as possible historical contexts for the application of the *shurūṭ*. Luke Yarbrough, "The Early Circulation and Late Adoption of the 'Pact of 'Umar' (Shurūṭ 'Umar)," *Jerusalem Studies in Arabic and Islam* 53 (2022): 237–304.

12 See n. 10.

13 Sibṭ Ibn al-Jawzī, *Mir'āt al-zamān fī ta'rīkh al-a'yān*, ed. Muḥammad Barakāt, 23 vols. (Damascus: Dār al-Risāla al-'Ālimiyya, 2012), 19:428; 'Alī 'Izz al-Dīn Ibn Athīr, *al-Kāmil fī l-tarīkh*, ed. Muḥammad Yūsuf al-Duqqāq, 11 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1987), 8:466.

14 For a list of other "dhimmī crackdowns" and the argument that these were not as short lived as many have interpreted them, see Milka Levy-Rubin, *Non-Muslims in the Early Islamic Empire. From Surrender to Coexistence* (Cambridge: Cambridge University Press, 2012), 110.

15 Gaston Wiet, "Kībt," in *EI* 1, vol. 2, 996; Donald Little, "Coptic Conversion to Islam under the Bahṛī Mamlūks, 692–755/1293–1354," *Bulletin of the School of Oriental and African Studies* 39.3 (1976): 552–69. For a corrective to these authors' emphasis on the relevance of the third/ninth century, see Yohanan Friedmann, "A Note on the Conversion of Egypt to Islam," *Jerusalem Studies in Arabic and Islam* 3 (1981): 238–240; and El-Leithy, "Coptic Culture and Conversion," 13–16.

occurred as a result.¹⁶ His observation refers to the villages of the Egyptian Delta and the circumstances that he sees as motivating the conversions are the violence to non-Muslim persons and property that occurred within the context of wider rebellions against Mamluk power in 755/1354.¹⁷ We cannot extrapolate the situation in Cairo or Egypt and Syria more generally, from revolts in what was a fairly localized region.¹⁸ However, the texts reflecting anti-*dhimmī* sentiment were compiled in urban centers such as Cairo and Damascus and it is in these urban centers too, where the edicts prohibiting non-Muslim employment in ministerial office and enforcing clothing distinctions were pronounced. Here too, non-Muslim populations found themselves under pressure to convert to Islam.¹⁹

But was this pressure equally relevant for non-Muslim men and women? Many of the measures relating to employment or social contact would have constituted a greater impediment to men than to women.²⁰ For example, employment in state office was only open to men and so a prohibition of non-Muslim presence would not have affected women.²¹ There is little evidence for the enforcement of the prohibition of Jewish and Christian physicians visiting Muslims but even if this were the case, female medical practitioners such as midwives seem not to have been affected at all.²² And while non-Muslim men may have been denied proximity to the ruler on the basis of their religious affiliation, this does not seem to have been the case for women, whose Christian or Jewish identity did not prevent their inclusion among the Sultans' consorts. By the seventh/thirteenth and eighth/fourteenth centuries, while a woman's conversion to Islam could enable her to escape an unhappy marriage

16 Aḥmad b. 'Alī al-Maqrīzī, *Kitāb al-Sulūk li-ma'rīfat duwal al-mulūk*, ed. Muḥammad 'Abd al-Qādir 'Aṭā, 8 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1997), 4:203.

17 Yossef Rapoport, "Invisible Peasants, Marauding Nomads: Taxation, Tribalism, and Rebellion in Mamluk Egypt," *Mamluk Studies Review* 8, 2 (2004): 1–22; El-Leithy, "Sufis, Copts, and the Politics of Piety."

18 Hofer, "The Ideology of Decline," 111.

19 Carl Petry, *The Mamluk Sultanate: A History* (Cambridge: Cambridge University Press, 2022), 259.

20 For a similar argument in relation to third-/ninth-century al-Andalus see Jessica Coope, "Religious and Cultural Conversion to Islam in Ninth-Century Umayyad Córdoba," *Journal of World History* 4 (1993): 60.

21 By this I mean that as women could not be employed as state officials, they were not directly affected by the requirements that state officials be Muslims. They would have been indirectly affected if their husband's religion meant that he could no longer work in this capacity.

22 Avner Giladi, *Muslim Midwives: The Craft of Birthing in the Premodern Middle East* (Cambridge: Cambridge University Press, 2014), 115–7, esp. n. 12.

or master-slave relationship,²³ it was not necessary to maintain the marriage if her husband converted. Additionally, as non-Muslim women were not subjected to the *jizya*, their choice of religion did not affect the income of their household.²⁴ In general, women had less to gain from conversion to Islam and more to lose, given the effect that a conversion could have on their relations with their wider family.²⁵ Given the lack of practical incentives, it seems likely that many women desisted from following their husband into the Islamic religion.²⁶

This is also indicated in some literary and documentary sources. Michael the Syrian, Patriarch of Antioch, comments that Christian women converted to Islam less frequently than men did, and quotes the chronicle of Deny of Tell Mahré to support his observation.²⁷ Documentation in the Cairo Geniza also contains many more references to male conversion than to female conversion.²⁸ Polemical texts written around this period, which criticize converts as insincere, support their argument with the observation that only the husband and

- 23 El-Leithy, "Coptic Culture and Conversion," 61; Shelomo Dov Goitein, *A Mediterranean Society: The Jewish Communities of the Arab World as Portrayed in the Documents of the Cairo Geniza*. Vol. 2, *The Community* (Berkeley: University of California Press, 1971), 299–311; Maya Shatzmiller, "Marriage, Family, and the Faith: Women's Conversion to Islam," *Journal of Family History* 21, 3 (1996), 235–266; Simonsohn, *Female Power*, 158.
- 24 On the argument that the *jizya* constituted the main motivation for Copts to convert to Islam see Mohamed Salah, "On the Road to Heaven: Taxation, Conversions, and the Coptic-Muslim Socioeconomic Gap in Medieval Egypt," *The Journal of Economic History* 78.2 (2018), 394–434.
- 25 Unlike men, whose social networks also included acquaintances from their professional and commercial contacts, women's relations were more closely restricted to family relations. As Moshe Yagur has observed, the relation between apostates and their former religious community and family did not end with their conversion but they were affected. On kinship relations after conversion see Simonsohn, *Female Power*, 116–119; Moshe Yagur, "The Community's Borders: Converts and Renegades," in *The Jews in Medieval Egypt*, ed. Miriam Frenkel (Boston: Academic Studies Press, 2021), 64–67.
- 26 Ragnhild Johnsrud Zorgati, *Pluralism in the Middle Ages Hybrid Identities, Conversion, and Mixed Marriages in Medieval Iberia* (Abingdon: Routledge, 2012), 67. For a discussion of the legal disadvantages that a woman accrued by conversion to Islam see Shatzmiller, "Marriage," 236–7.
- 27 Shatzmiller, "Marriage," 237.
- 28 Goitein, *A Mediterranean Society*. Vol. 2: 299–311. See also the studies of Moshe Yagur, esp. "Several Documents from the Cairo Genizah Concerning Conversion to Islam," in *Conversion to Islam in the Premodern Age*, ed. Uriel Simonsohn, Nimrod Hurvitz, Luke Yarbrough and Christian Sahner (Oakland: University of California Press, 2020), 227–31; Moshe Yagur, "Religiously Mixed Families in the Mediterranean Society of the Cairo Geniza," *Mediterranean Historical Review* 35.1 (2020): 27–42.

not his wife, convert.²⁹ Thus, although there are no statistics to support this claim, it seems likely that a high proportion of the conversions to Islam in the seventh/thirteenth and eighth/fourteenth centuries were husband-only conversions. The measures brought in to discourage husband-only conversion, which will be discussed below, also reflect a widespread assumption that the women in Christian and Jewish families did not convert when their husbands did and a dissatisfaction with this situation.

It is arguable that conversion, perhaps more than exogamous marriage, was a primary cause of religiously mixed households in the seventh/thirteenth and eighth/fourteenth centuries. Marriages between Muslim men and women who were clearly Christian or Jewish at the time of the union are frequently mentioned in literary and legal sources from the earliest years of Islam.³⁰ But these references become less common by the seventh/thirteenth and eighth/fourteenth centuries. Inter-religious households continue to present a variety of conundrums for jurists writing in this period, which suggests that marriages between Muslims and non-Muslims were still widespread. It seems likely that rather than Muslims marrying non-Muslims, the inter-religious households discussed by jurists arose when one of the spouses (usually the husband) converted to Islam after the couple had already married.³¹

This suggestion is supported by the fact that, although Islamic law allowed Muslim men to marry Christian and Jewish women, neither the Christian nor the Jewish authorities permitted women to marry outside their communities and references to these forms of marriage are rare. In his diary entry for 15 Ramadan 886/6 November 1481 the court functionary Ibn Ṭawq refers to a Jewish woman who converted to Islam and later married a Muslim man, suggesting that rather than beginning the marriage as a Jew, the woman in question preferred to change her religion and become the Muslim wife of her husband.³² Although other interpretations cannot be excluded, Ibn Ṭawq's anecdote, combined with the paucity of other references to marriages between

29 'Uthmān b. Ibrāhīm al-Nābulusī, *Tajrīd sayf al-himma li-istikhrāj mā fī dhimmat al-dhimma*, ed. Luke Yarbrough (New York: New York University Press, 2016), 49.

30 Lev Weitz, *Between Christ and Caliph: Law, Marriage, and Christian Community in Early Islam* (Philadelphia: University of Pennsylvania Press, 2018), 207–9; Abū Bakr Aḥmad b. Muḥammad al-Khallāl, *Ahl al-milal wa-l-ridda wa-l-zanādiqa wa-tārik al-ṣalāt wa-l-farā'id min Kitāb al-Jāmi'*, ed. Ibrāhīm b. Ḥamad b. Sulṭān (Riyadh: Maktabat al-Ma'ārif, 1996), 92: n. 64. See also the article by Christian Sahner in this volume.

31 Uriel Simonsohn notes that rabbinic legal sources rarely mention intermarriage between Jews and non-Jews, although they do address the marriages that continued after one Jewish spouse apostatized. Simonsohn, *Female Power*, 107.

32 Shihāb al-Dīn Aḥmad b. Ṭawq, *al-Ta'liq*, ed. Ja'far al-Muhājir, 2 vols. (Damascus: IFEAD, 2000), 1:87. See also Yagur, "Several Documents from the Cairo Genizah," 227–9.

Muslim men and Jewish or Christian women, suggests that beginning an inter-religious marriage was not common by the seventh/thirteenth century.

By contrast, continuing a marriage after the husband changed his religion does not seem to have presented many problems. According to Jewish law a Jew did not lose his religious identity through conversion to another religion, although the act itself was viewed as sinful.³³ Even if the Jewish legal authorities had required the convert man to divorce his wife, as a Muslim he was not obliged to comply and his wife was not able to initiate the separation herself.³⁴

Christian communities punished apostasy by alienating the apostate and his family. Legal authorities initially prohibited the continuation of a marriage or even contact with an apostate,³⁵ and stigmatized wives of apostates by refusing them the Eucharist.³⁶ However, despite the references to exclusionary measures, it is evident that the Church authorities sometimes did allow the family of the apostate to maintain contact with the community.³⁷ As Alexandra Cuffel observes, the connection with the religious community often continued after conversion and references to Muslims visiting the Synagogue or receiving the Eucharist are not unusual in literary and documentary sources.³⁸ It is evident therefore, that conversion to Islam did not always sever the relation of the convert to his wife, family and community. Rather than building new bridges between communities, by the seventh/thirteenth century inter-religious marriage seems to have been an important means of enabling Jews and Christians to continue participating in Muslim society, without fundamentally changing the religious identity of their entire families. As Tamer El-Leithy's analysis of single-generation conversion has shown, in many cases the life of the convert

33 Moshe Yagur, "Religiously Mixed Families," 29; Uriel Simonsohn, "The Legal and Social Bonds of Jewish Apostates and Their Spouses according to Gaonic Responsa," *The Jewish Quarterly Review* 105.4 (2015): 417–439.

34 I am grateful to the discussion with Uriel Simonsohn and Oded Zinger for helping me to think about this point. Moshe Yagur refers to an example of a Jewish woman who remained married to her husband after his conversion to Islam. Yagur, "Several Documents from the Cairo Genizah," 229.

35 Weitz, *Between Christ and Caliph*, 201.

36 Uriel Simonsohn, "Communal Membership despite Religious Exogamy: a Critical Examination of East and West Syrian Legal Sources of the Late Sasanian and Early Islamic Periods," *Journal of Near Eastern Studies* 75.2 (2016): 249–266. On the social relevance of the Eucharist see Weitz, *Between Christ and Caliph*, 126–7.

37 Simonsohn, *Female Power*, 116–8; Simonsohn, "Communal Membership," 252.

38 Alexandra Cuffel, "Conversion and Religious Polemic between Jews and Christians in Egypt from Fatimid-Mamluk Periods," in *Minorities in Contact in the Medieval Mediterranean*, ed. Clara Almagro Vidal, Jessica Tearney-Pearce, and Luke Yarbrough (Turnhout: Brepols, 2020), 94.

continued as previously, without any change to his social or familial network.³⁹ In the following sections I will highlight other indications that this was the case, or at least the intention, of many husband-only conversions and the measures that social authorities took to counteract this.

3 The Legal Parameters for Husband-Only Conversion

Because beginning a marriage between a Muslim man and a Jewish or Christian woman is uncontroversial in Islamic law, the continuation of a marriage between a Jewish or Christian couple after the husband converts to Islam is deemed to be equally unproblematic.⁴⁰ Jurists such as Ibn Nāǧī al-Tanūkhī (d. 386/996) who express their dislike for continuing a marriage with a non-Muslim woman also refer to their dislike for beginning a mixed marriage in their explanation;⁴¹ none distinguish between continuing or beginning a marriage with a Jewish or Christian woman.⁴² Some discussions of this topic mention marriages that are legal under the convert's former religion but which are illegal according to Islamic law, such as a man's marriage to two or more sisters simultaneously or to more than four women. But these discussions tend to address the marriage of a pagan (*wathanī*) or Zoroastrian (*majūsī*) convert and originate in texts from the third/ninth and fourth/tenth century, when the situation may have been more common. None of the legal texts explicitly mention any obligation for the Jewish or Christian wife to convert to Islam after her husband's conversion.

The religious status of the adult children of the convert was not affected by his conversion, but there was some debate about the children who had not reached the age of majority. For most Ḥanafī, Shāfiʿī, and Ḥanbalī scholars these children were now to be categorized as Muslims, whether they assented

39 El-Leithy, "Coptic Culture and Conversion," 13–16.

40 Ibn 'Abd al-Barr, *al-Istidhkār al-jāmi' li-madhāhib fuqahā' al-amṣār wa-'ulamā' al-aqtār fī-mā taḍammanahu al-muwaṭṭa' min ma'ānī l-ra'y wa-l-āthār*, 30 vols. (Damascus: Dār Qutayba, 1993), 5: 525; Saḥnūn b. Sa'īd, *al-Mudawwana*, 4 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1994), 2: 214.

41 Qāsim b. 'Īsā b. Nāǧī al-Tanūkhī, *Sharḥ 'alā matn al-risāla*, ed. Aḥmad Farīd al-Mazīdī, 2 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 2007), 2:35.

42 On reservations regarding Muslim marriage with Christian and Jewish women see Yohanan Friedmann, *Tolerance and Coercion in Islam: Interfaith Relations in the Muslim Tradition* (Cambridge: Cambridge University Press, 2003), 192; Simonsohn, *Female Power*, 111.

or not.⁴³ This ruling relates to the view that a child's natural inclination (*fiṭra*) was oriented towards Islam. The non-Muslim parent's raising of their child according to their Jewish or Christian religion constituted an obstacle to the true development of the *fiṭra* which ended with the conversion of the father to Islam. This in turn obliged the child to accept the religion of his or her *fiṭra*.⁴⁴ There is less agreement among Mālikī scholars. In Saḥnūn b. Sa'īd's *al-Mudawwana* he describes Mālik as having left the child to continue his or her religion until the age of maturity, whereupon he was asked which religion he would like to adopt. If the child chose not to accept Islam, he should not be forced to change his mind, according to Saḥnūn b. Sa'īd's presentation of this teaching.⁴⁵ Ibn 'Abd al-Barr gives a similar interpretation. But Ibn Rushd, also citing Mālik, argues that the child should be forced to accept Islam if he was a minor at the time of his father's conversion.⁴⁶

However, even if the wife and adult children of a convert to Islam were not obliged to convert as well, they were heavily disadvantaged if they did not do so, due to the fact that after his death the convert's wealth would be regulated by Islamic law, which prohibited non-Muslims from inheriting from Muslims.

The basic principle that most jurists followed in regard to this question was that a person's wealth could only be inherited by members of his or her own religious community.⁴⁷ Thus a Christian could only pass his wealth to other Christians and only Muslims were permitted to inherit from a deceased Muslim. Although this principle dominated most interpretations, some jurists did permit Muslims to inherit from non-Muslims without allowing non-Muslims to inherit from Muslims.⁴⁸ Ibn Rushd justifies this principle by

43 Aḥmad b. Muḥammad b. 'Alī Najm al-Dīn b. Raf'a, *Kifāyat al-nabīh sharḥ al-tanbīh*, ed. Majdī Muḥammad Surūr bi-Islām, 21 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 2009), 11:499; Shams al-Dīn b. Qayyim al-Jawziyya, *Aḥkām ahl al-dhimma*, ed. Ṣubḥī al-Ṣāliḥ, 2 vols. (Damascus: Maṭba'at Jāmi'at Dimashq, 1961), 2:522; Friedmann, *Tolerance and Coercion*, 114.

44 Livnat Holtzman, "Human Choice, Divine Guidance, and the Fiṭra Tradition: The Use of Hadith in Theological Treatises by Ibn Taymiyya and Ibn Qayyim al-Jawziyya," in *Ibn Taymiyya and His Times*, Yossef Rapoport and Shahab Ahmed (Karachi: Oxford University Press, 2010), 163–188.

45 Saḥnūn b. Sa'īd, *al-Mudawwana*, 2:221.

46 A discussion relating to this question can be found in the earlier context of third/ninth-century al-Andalus. Zorgati, *Pluralism in the Middle Ages*, 49.

47 Abū Muḥammad al-Ḥusayn b. Mas'ūd al-Baghawī, *Ma'ālim al-tanzīl fī tafsīr al-Qur'ān*, ed. 'Abd al-Razzāq al-Mahdī, 5 vols. (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1999), 1:574.

48 Abū Bakr b. Abī Shayba, *Kitāb al-Muṣannaḥ fī al-aḥādīth wa-l-āthār*, ed. Kamāl Yūsuf al-Ḥawt, 7 vols. (Riyadh: Maktabat al-Rushd, 1989), 6: 284. Ibn Ḥanbal permitted a convert to Islam to inherit from his father, but not from his brother or uncle. al-Khallāl, *Ahl al-milal*, 89.

referring to Muslim men's permission to marry Jewish and Christian women, while Jewish and Christian men may not marry Muslim women. But the Ḥanbali jurist Ibn al-Qayyim (d. 751/1350) justifies one-sided inheritance with more practical principles. The first of these is the protection that Muslims offer Jews and Christians against external attack, without any recompense or parallel protection. The second is the importance of endearing Islam to potential converts. Ibn al-Qayyim emphasizes the deterring effect that the thought of forfeiting his inheritance might have on a person considering entering Islam and stresses that jurists should allow Muslims to inherit from their non-Muslim families in order to expand the Muslim community.⁴⁹

A convert therefore, was usually able to inherit from his non-Muslim family, but his own wealth could only be inherited by Muslims. If there were no Muslim heirs his estate passed to the Muslim treasury. This state of affairs could quickly affect the community as a whole, as the impoverished family sought assistance from outside the family circle. If the deceased convert had been a wealthy member of the community, which was often the case, the community would also suffer from the loss of funds that he would otherwise have left to them after his death.

One way in which the new Muslim could financially cushion his family after his conversion was to give portions of his personal wealth to his wife and family while still alive.⁵⁰ But the amount that a person could bequeath during his lifetime was limited in Islamic law and so the success of this stratagem depended on the discretion of those involved. If some members of the family had converted to Islam and would benefit from an unequal distribution of the inheritance, they could contest these gifts in order to increase their own fortune after their father's death.

Another ruse by which the convert could direct his estate towards his family was voluntarily forfeiting his share of his parent's inheritance.⁵¹ This would mean that the bulk of the wealth would pass to his children, or the grandchildren of the deceased. As such, he would have little wealth eligible for redistribution when he himself died. Although there is little written evidence about how successful these and other ruses were at circumventing rulings about the inheritance of a convert, they must have at least contributed to protecting the *dhimmī* communities against the absolute poverty that the Islamic rulings would have otherwise entailed. They also show that emotional and social

49 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 463–4.

50 El-Leithy, "Coptic Culture and Conversion," 93, n. 72.

51 El-Leithy, "Coptic Culture and Conversion," 113.

connections with the former religious community often did not end with conversion to Islam.

4 Measures Implemented against Non-Converting Families

This section will examine measures described as having been implemented against non-converting families of new Muslims. Although marriage and familial relations with non-Muslims were permitted in Islamic law, these measures suggest that jurists were uncomfortable about these forms of relation, which corresponds to the increase in anxieties about the social role of *dhimmīs* described at the beginning of this study.

One measure implemented against non-converting children was the attempt to categorize their own children, or the grandchildren of the convert, as Muslims too. This measure seems to have been applied to the non-mature child (*ṭifl*) and is discussed in relation to the *fiṭra*,⁵² suggesting that it was governed by a similar logic about a child's inherent orientation and the removal of obstacles to Islam. However, references to its social application relate to adults, whose putative Muslim grandparentage should have rendered them Muslim as children.

A ruling justifying this measure is attributed to al-Shāfiʿī, but al-Shāfiʿī's ruling seems to have attracted little interest before the seventh/thirteenth and eighth/fourteenth centuries. It is briefly discussed by al-Māwardī (d. 450/1058) who attributes it to al-Shāfiʿī,⁵³ and by the Ḥanafī jurist al-Ṭahāwī (d. 321/933), who attributes it to al-ʿAwzāʿī without discussing it further.⁵⁴ But there is no evidence that it was implemented until the eighth/fourteenth century, when it seems to have attracted more interest. The Shāfiʿī jurist and zoologist Muḥammad al-Damīrī (d. 808/1405) refers in his *al-Najm al-wahhāj fī sharḥ al-minhāj* to a series of Shāfiʿī jurists who viewed the conversion of all grandchildren of converts as obligatory.⁵⁵ One of those whom he mentions was Ibn al-Rifʿa (d. 710/1310), who is known for his tract about the

52 For example, Kamāl al-Dīn Muḥammad b. Mūsā al-Damīrī, *al-Najm al-wahhāj fī sharḥ al-minhāj*, 10 vols. (Jedda: Dār al-Minhāj, 2004), 6:68.

53 Abū l-Ḥassan ʿAlī al-Māwardī, *al-Ḥawī al-kabīr*, ed. ʿĀdil Aḥmad ʿAbd al-Mawjūd, 19 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1999), 17:407.

54 Abū Jaʿfar Aḥmad b. Muḥammad al-Ṭahāwī, *Mukhtaṣar ikhtilāf al-ʿulamāʾ*, ed. ʿAbd Allāh Naẓīr Aḥmad (Beirut: Dār al-Bashāʾir al-Islāmiyya, 1996), 3:483.

55 al-Damīrī, *al-Najm al-wahhāj*, 6:68.

destruction of churches.⁵⁶ Al-Damīrī also describes the chief judge Taqī al-Dīn b. Razīn al-Ḥamawī (d. 680/1281) as ruling that the grandchildren of converts were Muslims too.⁵⁷ References to rulings to this effect are also provided by al-Maqrīzī, who mentions an attempt to force a Christian man to convert on the basis that his grandfather had converted at an earlier date.⁵⁸ The incident took place in 754/1353, in al-Naḥrīyya, when a Christian man was brought before the judge under the accusation that his grandfather had converted to Islam. The judge's response was to imprison the putative Muslim until he publicly changed religions.⁵⁹

It is difficult to assess how commonly this ruling was put into practice. Tamer el-Leithy has identified two similar incidents in Christian sources,⁶⁰ but in each case the attempt to force conversion on the basis that the grandfather had converted to Islam appears to have caused an uproar in the community, suggesting that it was not a widely practiced measure. It is also possible however, that these cases were only mentioned because of the tumult that they led to and that there were other incidents which did not provoke as strong a backlash and consequently went unmentioned. It is in all events noteworthy that although the ruling was known before this period, references to it proliferate in legal and historical texts from around the seventh/thirteenth and eighth/fourteenth century. Interest in the fate of a convert's grandson seems to coincide with a time when anti-*dhimmī* sentiment, and anxieties about conversion, were widespread.

Al-Maqrīzī also refers to another edict, released in 755/1354, obliging Muslim converts to attend the mosque regularly after their conversion, and to end their contact with their own family in the event that they did not convert as well: "If he converts through his own volition, he may not enter his home and he may not meet his family unless they also follow him in converting to Islam."⁶¹ This edict would have had the effect of forcing the convert's family to embrace Islam if they wished to maintain contact and continue receiving financial support from him. Although it is not clear how widely it was put into effect,

56 Najm al-Dīn Abū l-'Abbās Aḥmad b. Muḥammad b. al-Rif'a, *al-Nafā'is fī adillat hadm al-kanā'is*, ed. Sa'd al-Dīn al-Ka'kī (Riyadh: Bayyūna, 2013).

57 On this judge see Ibn Kathīr, *Kitāb Ṭabaqāt al-shāfi'īn*, ed. Aḥmad 'Umar Hāshim, 2 vols. (Cairo: Maktabat al-Thaqāfa al-Dīniyya, 1993), 1:907.

58 Another example of jurists forcing non-Muslims to convert on the grounds that they were underage at the time of their guardian's conversion is given by Zorgati, *Pluralism in the Middle Ages*, 49.

59 Al-Maqrīzī, *Kitāb al-Sulūk*, 4:184–5. El-Leithy, "Coptic Culture and Conversion," 69.

60 El-Leithy, "Coptic Culture and Conversion," 67.

61 Al-Maqrīzī, *Kitāb al-Sulūk*, 4:203.

it corresponds to a concern expressed by al-Nābulusī that the convert's continued contact with his non-converting family gave him the opportunity to express his regrets about his conversion and to strengthen his affiliation to his former religion.

Outwardly he is a Muslim, when he is among Muslims. But when he is alone in his home, with his Christian father and his Christian mother and his Christian brother and sister, and his children and his wife and her family and his relatives, then he reveals his true colours as a Christian, apologizing to them for what he has done and saying to them, "By God, nothing from the religion of those Muslims has entered my heart. It was necessity that drove me to stand with them, and pronounce those words [of confession to Islam], seeking safety for myself in the face of the tribulation which was passing over us. And by God, when I pass this church or that monastery, there's not a limb or vein of mine that doesn't long for those places, and for the images, and the holy buildings."⁶²

Al-Nābulusī's imaginative reconstruction of the convert's outpouring to his family reflects a view of the domestic space as the setting in which the person reveals his or her true religious sentiment.⁶³ Rather than the formal religious space of the mosque or the church, the space and context of kinship are seen as the primary religious space in this quote. The home is where religious sentiment is both expressed and formed; in this passage the convert's longing for his former religion is not only being expressed but also confirmed and shaped by his Christian family around him. Al-Nābulusī's portrayal corresponds to the observation of Tamer el-Leithy regarding the domestication of religious space due to more oppressive regulation.⁶⁴ His study refers to Copts assembling for worship in private houses, as gathering in churches and holding public rituals became more difficult. It is possible that this shift towards the private, domestic space was observed by Muslim authors and that al-Nābulusī's passage reflects their unease about this development.

At the same time however, al-Nābulusī also recognizes the power that the public religious center such as the church exercises over the community. The convert's description of the pain that he feels when passing his former place of worship correlates with Muslim authors' uneasiness about the physical

62 al-Nābulusī, *Tajrīd sayf al-himma*, 49.

63 See also Ibn Naqqāsh, *Kitāb al-madhamma*, 300–1.

64 El-Leithy, "Coptic Culture and Conversion," 360–4.

symbols of religion, which in turn relates to increased calls for the destruction of churches during this period.⁶⁵

Another measure, also announced in 755/1354 and mentioned by al-Maqrīzī and al-Qalqashandī, specified the confiscation of a deceased *dhimmī*'s property by the *diwān al-mawārith al-ḥashriyya* (Bureau of Inheritance), whose officials would oversee its distribution.⁶⁶ This would have made it more difficult for *dhimmīs* to practice any of the strategies for preserving inheritance mentioned in the previous section and would have given more scope to Muslim authorities to gain access to the wealth of both non-Muslims' and converts' families.⁶⁷

The measures referred to by al-Maqrīzī focus on forcing conversion of family members or punishing relatives of new Muslims who did not convert as well. By contrast, the rulings for converts in one legal compendium addressing *dhimmīs* focus on positive motivation to co-convert, with a more subtle use of punitive and coercive aspects.

5 Juridical Rulings to Encourage Conversion: the Example of *Aḥkām ahl al-dhimma*

The text used for this comparison is *Aḥkām ahl al-dhimma*, by the Ḥanbalī jurist Ibn Qayyim al-Jawziyya (d. 751/1350). *Aḥkām ahl al-dhimma* covers a wide variety of legal dilemmas, questions and debates around the participation of *dhimmīs* in Muslim society and how Muslims should interact with them. The text also contains several discussions relating to conversion to Islam. *Aḥkām ahl al-dhimma* was written in broadly the same period as other polemical tracts about *dhimmīs* and insincere converts,⁶⁸ and there is no doubt that Ibn al-Qayyim was familiar with this genre. His text is important because although he engages with these views, he also distinguishes his own position from that

65 Van Den Bossche, "Destroying Churches by Performing Knowledge"; El-Leithy, "Sufis, Copts, and the Politics of Piety," 106; Seth Ward, "Ibn al-Rif'a on the Churches and Synagogues of Cairo," *Medieval Encounters* 5.1 (1999): 70–84.

66 Al-Maqrīzī, *Kitāb al-Sulūk* 4:202; Aḥmad b. 'Alī al-Qalqashandī, *Ṣubḥ al-a'shā fī ṣinā'at al-inshā'*, ed. Muḥammad Ḥusayn Shams al-Dīn, 14 vols. (Beirut: Dār al-Kutub al-Ilmiyya, 1987), 13:378.

67 On the Bureau of Inheritance and its relevance for non-Muslims see Goitein, *A Mediterranean Society*. Vol. 2: 394–8; Anne Regourd, "A Late Ayyubid Report of Death Found at Quṣayr al-Qadīm," in *Documents and the History of the Early Islamic World*, ed. Petra Sijperstein and Alexander Schubert (Leiden: Brill, 2015), 11–26.

68 Antonia Bosanquet, "Keeping their Place: The Prohibition on non-Muslim Scribes in *Aḥkām ahl al-dhimma*," in *Minorities in Contact*, 211–230.

of others through his choice of which rulings to include or his comments on the teaching of his contemporaries.⁶⁹

Ibn al-Qayyim is also an apt example for this comparison because his views on women and on non-Muslims' relation to society are more pronounced than those of his contemporaries. Ibn al-Qayyim is not only famous as a Ḥanbalī scholar but also as a loyal student of the more famous Ibn Taymiyya (d. 728/1328), who was renowned for his outspoken and often unusual stance on social questions.⁷⁰ Like Ibn Taymiyya, whose fatwas often reveal his interest in safeguarding the welfare of women as it is prescribed in Islamic law,⁷¹ Ibn al-Qayyim's writings reveal a concern for women's wellbeing and an awareness of the influence that women have over the religious orientation of the men around them. This is clearly reflected in his unusual ruling about the conversion of a married Jewish or Christian woman to Islam. Here Ibn al-Qayyim argues that, contrary to the majority opinion obliging a female convert to be divorced from a non-converting husband, a female convert should be given the choice about whether to remain married to her husband after her conversion.⁷² His justification for this is that the woman, whom he assumes loves her husband and wishes to stay with him,⁷³ will be more ready to convert to Islam if she knows that she can keep her marriage then if she knows that her conversion obliges her divorce. He comments:

If the wife or the husband knows that merely by converting to Islam the marriage will be ended and they will be separated from their loved one (*yazūl al-nikāḥ wa-yufāriq man yuḥibb*) [...] they will be deterred from converting.⁷⁴

He also notes that "hastening a marital separation deters [the couple] from turning to Islam, but the intention (*al-maqṣūd*) is to draw hearts closer to

69 On Ibn al-Qayyim's method see Antonia Bosanquet, *Minding Their Place. Space and Religious Hierarchy in Ibn al-Qayyim's Aḥkām ahl al-dhimma* (Leiden: Brill, 2020), 99–122. On his theological worldview see Miriam Ovadia, *Ibn Qayyim al-Jawziyya and the "Divine Attributes," Rationalized Traditionalistic Theology* (Leiden: Brill, 2018).

70 On Ibn Taymiyya see Jon Hoover, *Ibn Taymiyya* (London: Oneworld Publications, 2019).

71 Yossef Rapoport, "Ibn Taymiyya on Divorce Oaths," in *The Mamluks in Egyptian and Syrian Politics and Society*, ed. Michael Winter and Amalia Levanoni (Leiden: Brill, 2004), 191–217; Yahya Nurgat, "Menstruation and the Ṭawāf al-Ifāḍa: A Study of Ibn Taymiyya's Landmark Ruling of Permissibility," *Hawwa* 20.3 (2022): 265–7.

72 Bosanquet, "The kitābī Wife's Conversion."

73 This was not always the case. On conversion as a means to escape an oppressive relationship see Shatzmiller, "Marriage," 235–266.

74 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:344.

Islam, by any means.”⁷⁵ Ibn al-Qayyim also assumes that the wife’s continued contact with her husband will bring about his conversion, whereas ending all relations between the couple will have the opposite effect.⁷⁶

When discussing the family of a male convert Ibn al-Qayyim’s approach tends to focus on the same principle of endearing Islam that he mentions in relation to the female convert, and he rarely refers to punitive measures. He discusses the ruling that a grandparent’s conversion necessitates that of his grandchild but does not interpret it in a manner that would justify forcing an adult to convert retrospectively, or as a punitive measure. In his view, which he describes as the same as al-Shāfi‘ī’s, a grandparent’s conversion only occasions that of his grandchildren when he is acting as their guardian because the parents are deceased or absent.⁷⁷ If the grandchildren are being raised by their own parents then the grandparents’ conversion is not relevant.⁷⁸

Ibn al-Qayyim also addresses the question of contact between a convert to Islam and his non-converting family. Although he does not rule that contact must be maintained, or that prohibiting contact is illegal, he stresses that a convert should continue to support and care for his family, regardless of their religion. He ends his discussion of this ruling with a disparaging description of the new Muslim who leaves his family in financial straits. Beginning with a quotation from verse 8 of *Sūrat al-‘Ankabūt* (“And we ordained goodness upon man, in respect to his parents”)⁷⁹ he continues:

Leaving his father and mother in the depths of poverty and indigence, whilst he lives in the lap of luxury, is neither goodness nor charity (*laysa min al-ihsān wa-lā min al-ma‘rūf*). And God, most blessed and exalted, censured those who broke the bonds of blood relation and made this a great sin. And He made the claim of blood relation obligatory, even if it be to an unbeliever.⁸⁰

The edict of 755/1354 was issued after Ibn al-Qayyim had died, and so there is no need to establish a direct comparison between the rulings. However, it is notable that Ibn al-Qayyim’s emphasis on the obligation of *birr al-wālidayn*, or filial piety would not have supported the abandonment that this edict entailed.

75 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:345.

76 Bosanquet, “The kitābī Wife’s Conversion,” 210.

77 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:522.

78 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:507.

79 Q 29: 8. Translation from Arberry, *Koran Interpreted*, 2:98.

80 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:417. For other examples see Simonsohn, *Female Power*, 122–3.

Ibn al-Qayyim's concern to encourage conversion by easing the situation of the convert is also evident in his treatment of the convert's inheritance. When discussing inheritance between Muslims and non-Muslims Ibn al-Qayyim transmits a ruling permitting the family of a Muslim to inherit from him, even if they were not Muslims at the time of his death. If the family members convert to Islam after their relative's death but before the distribution of the inheritance, they may still receive their share.⁸¹ This practice is not permitted by the Ḥanafī, Shāfiʿī, and Mālikī schools. Even within the Ḥanbalī school, it was disputed and Ibn al-Qayyim transmits both a prohibition and a guarded acceptance of the practice from Aḥmad b. Ḥanbal.⁸² He himself is adamant that the practice should be allowed and argues in this vein for several pages. He notes:

Allowing the Muslim to inherit [if he converts] before the distribution will encourage him to convert to Islam, and will exalt and extoll the call to the religion. [...] Inheritance is contingent upon kinship, but the *sharʿa* punishes his unbelief by depriving him of it. If he converts then the condition permitting the punishment is no longer present. Indeed, he becomes more deserving of reward than of punishment.⁸³

In his concern to win over potential converts Ibn al-Qayyim goes even further regarding the financial benefits that they can accrue, and goes on to specify that even a conversion after the distribution can enable the new Muslims to recover their inheritance from the treasury where it was deposited.⁸⁴ His logic is that expanding the means by which conversion can enable inheritance will encourage the Jew or Christian to convert to Islam, which is a principle aim of the Sharia.⁸⁵ As such, the family of the convert should be entitled to benefit from their conversion at any point, regardless of when and why this takes place.

However, Ibn al-Qayyim does not extend this reasoning to the Jewish or Christian wife of the convert. Without any prolonged discussion of this question, he specifies that a woman who has not converted to Islam by the time of her husband's death is not entitled to any of his inheritance.⁸⁶ This, he notes briefly, is because she is not related to him by blood but by contract and without

81 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:452–4.

82 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:452. See also Abū l-Najā l-Ḥijāwī, *al-Iqnāʿ fī fiqh al-imām Aḥmad b. Ḥanbal*, 4 vols. (Beirut: Dār al-Maʿrifa, 1988), 3:115.

83 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:457.

84 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:457.

85 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:457–8, 465.

86 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:460–1.

the religion to bind them, the contractual relation ends with the death of one of the parties.⁸⁷ With this argument Ibn al-Qayyim puts shared religion on an almost equal footing with kinship, and indeed this seems to be his intention, as he comments at the end of his explanation, “Kinship does not end with death, and a shared religion is congruent with long-standing kinship.”⁸⁸

Other Ḥanbalī authorities⁸⁹ specify that a non-Muslim wife may inherit from her Muslim husband if she converts before the distribution and is in her *‘idda*.⁹⁰ This tradition is attributed to the same authorities as those used by Ibn al-Qayyim in *Aḥkām ahl al-dhimma* and is defended with the same logic of encouraging conversion to Islam, but it is not mentioned by Ibn al-Qayyim. By including the prohibition, excluding the time for reflection that the *‘idda* clause would have entailed, and emphasizing the link between shared religion and inheritance, Ibn al-Qayyim imposes a heavy sanction on the wife who maintains her religion after her husband has converted. This is in marked contrast to the generosity that he shows a couple in which the non-Muslim woman converts to Islam, and the husband maintains his original religion.

Ibn al-Qayyim’s discussion of the consequences of a man’s conversion to Islam takes up considerably more space in *Aḥkām ahl al-dhimma* than his discussion of a woman’s conversion does. This probably reflects the fact that husband-only conversion was more frequent and attracted more attention than wife-only conversion did. The variety of sources and views that Ibn al-Qayyim is able to incorporate into this discussion also reflects its continued relevance. However, despite the variety of teachings to which he refers, most of the content of Ibn al-Qayyim’s discussion of this subject is drawn from the same discussion in *Kitāb al-Mughnī* by the Ḥanbalī jurist Ibn Qudāma (d. 620/1223),⁹¹ who is an important source for both Ibn al-Qayyim and Ibn Taymiyya in other discussions as well.

Rather than a literal reproduction, Ibn al-Qayyim’s transmission from Ibn Qudāma’s discussion of the husband’s conversion changes the original text by

87 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:461.

88 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:461.

89 These are mentioned by Ibrāhīm b. Muḥammad b. Ḍawwān, *Manār al-sabīl fī sharḥ al-dalīl*, ed. Zahr al-Shāwīsh, 2 vols. (Mecca: al-Maktab al-Islāmī, 1989) 2:94.

90 On the *‘idda* see Gerald Hawting, “The Role of Qur’an and Hadith in the Legal Controversy about the Rights of a Divorced Woman during Her ‘Waiting Period’ (*‘idda*),” *Bulletin of the School of Oriental and African Studies* 52.3 (1989): 430–45. Ibn al-Qayyim describes the *‘idda* as a period of reflection in his *I’lām al-Muwaqqi’īn ‘an Rabb al-‘ālamīn*, ed. Abū ‘Ubayda Mashhūr b. Ḥasan al-Salmān, 7 vols. (Riyadh: Dār Ibn al-Jawzī, 2002), 3:295–302.

91 Ibn Qudāma al-Maqdisī, Muwaffaq al-Dīn Abū Muḥammad ‘Abd Allāh b. Aḥmad b. Muḥammad. *Kitāb al-Mughnī*, ed. ‘Abd Allāh b. ‘Abd al-Muḥsin al-Turkī and ‘Abd al-Fattāḥ Muḥammad al-Ḥulwī, 15 vols. (Riyadh: Dār ‘Ālam al-Kutub, 1986–1997).

omitting and rearranging some paragraphs. For example, when Ibn Qudāma concludes his discussion of how various constellations of pagan marriages should be adjusted to render them legitimate under Islamic law, he notes emphatically that the wife need not convert if she belongs to one of the religions of the book (*kitābiyya*). Ibn al-Qayyim omits this affirmation in his transmission of Ibn Qudāma's teaching. He begins his discussion with the more general observation that "If the wife is a *kitābiyya*, his conversion to Islam does not have any effect on the dissolution of the marriage, and it continues as it began," but does not elaborate on this further.⁹² In addition to presenting this point more succinctly than Ibn Qudāma does Ibn al-Qayyim also omits Ibn Qudāma's comment that a convert's continuation of his marriage with a *kitābī* wife is even more legitimate than beginning a marriage with a *kitābī* woman.⁹³

Ibn al-Qayyim then goes on to consider questions relating to non-Muslim marriages that become illegal after conversion to Islam. Examples include a marriage to more than four women, to a mother and her daughter, to a woman living in the *dār al-ḥarb*, or a dowry that consisted of alcohol or pork. Very few of the discussions in this section seem relevant for a compendium specifically dedicated to Jews and Christians living under Islamic rule. Polygyny was not allowed for Christian men, although there are some references to its occurrence.⁹⁴ The extent to which it was practiced by Jewish men in seventh/thirteenth and eighth/fourteenth-century Egypt and Syria is debated. The inclusion in many marriage contracts from this period of a clause enjoining monogamy, or giving the first wife the right to a divorce if her husband took a second wife, suggests that bigamy was a realistic possibility, but that women did not feel obliged to accept it.⁹⁵ In the light of such "monogamy clauses" and the limitations that Jewish authorities placed on men taking even a second wife,⁹⁶ it seems unlikely that the discussion of how to dissolve a convert's marriage to five, six or ten wives would have been relevant for the Jewish and Christian converts about whom Ibn al-Qayyim was supposedly writing. Other

92 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:317. Compare *Kitāb al-Mughnī*, 10:32–3.

93 *Fa-istidāmuhu ūlā*. Ibn Qudāma, *Kitāb al-Mughnī*, 10:32.

94 El-Leithy, "Coptic Culture and Conversion," 390–9. He also identifies references to concubinage, which would not have posed a problem for the regulation of a convert's marriage. On the prohibition of bigamy in the Coptic Patriarch canons of 1086 see Mark Cohen, *Jewish Self-Government in Medieval Egypt: The Origins of the Office of the Head of the Jews, ca. 1065–1126* (Princeton: Princeton University Press, 1981), 259.

95 Mordechai Friedman, "Polygyny in Jewish Tradition and Practice – New Sources from the Cairo Geniza," *Proceedings of the American Academy for Jewish Research* 49 (1982): 60–65.

96 Shelomo Dov Goitein, *A Mediterranean Society: The Jewish Communities of the Arab World as Portrayed in the Documents of the Cairo Geniza*. Vol. 3, *The Family* (Berkeley: University of California Press, 1971), 147–50, 205–11.

cases that he discusses, such as the man married to a mother and her daughter simultaneously,⁹⁷ or the child who converts to Islam before reaching the age of maturity but after his father has married him to several different women, are unthinkable for Christians or Jews living in seventh/thirteenth-century Egypt or Syria.⁹⁸

Why then, does Ibn al-Qayyim include them in his compendium dedicated to rulings for *dhimmīs*? Is it simply to pad out what would otherwise be a relatively meagre discussion? This seems unlikely; despite using Ibn Qudāma's work as a source text Ibn al-Qayyim develops much of the teaching that he transmits, often expressing his approval or criticism of a particular interpretation. For example, he criticizes Ibn Qudāma's solution for regulating the marriages of a minor who has converted to Islam, describing the interpretation in *al-Mughnī* as heartless and proposing instead that the father of the convert proceed in the same way that he would if his son had gone mad.⁹⁹

A key point that Ibn al-Qayyim's discussion of these questions contains is the influence that the wife's co-conversion must have over the fate of the marriage. For example, in his discussion of how to regulate the convert's marriage to eight women Ibn al-Qayyim recommends that the convert choose the four wives who have converted, if possible.¹⁰⁰ He recommends further procedures for cases in which all eight wives convert, including clauses for if a wife or wives die after their conversion but before the man's agreement to retain them as his wife.¹⁰¹ If the wife or wives have not converted by the end of the *'idda* period that follows the statement of divorce, the husband must divorce them. The key factor in all of the cases that Ibn al-Qayyim discusses is whether the wife converts, and, subsequent to this, whether the marriages that are ended should be defined as ending through divorce (*ṭalāq*) or dissolution (*faskh*).

At no point does Ibn al-Qayyim mention that the requirement to convert is only relevant for pagan or Zoroastrian wives. Neither does he specify, at any point, that the marriages that he is discussing are those of non-*kitābīs*. While Ibn Qudāma distinguishes between a convert's marriage to *kitābī*, *wathanī* (pagan), or *majūsī* (Zoroastrian) women,¹⁰² Ibn al-Qayyim's transmission of Ibn Qudāma's text consistently uses the term *kāfir* to refer to the non-convert

97 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:359.

98 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:373. See also Ibn Qudāma, *Kitāb al-Mughnī*, 10:15–16.

99 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:373–5. On this ruling see Bosanquet, "The kitābī Wife's Conversion," 209.

100 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:382.

101 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:387–92.

102 Ibn Qudāma, *Kitāb al-Mughnī*, 10:14.

wife. This term is applicable to all non-Muslims, so it would not be incorrect for a ruling exclusively about pagan non-Muslims. However, *kāfir* and *kāfira* are the terms that Ibn al-Qayyim uses throughout *Aḥkām ahl al-dhimma* to refer to Jews and Christians. His use of the term in this discussion therefore leads to a lack of clarity; is the obligation to convert only relevant for pagan wives of converts or does it apply to Jewish and Christian women too?

It is unclear whether this ambiguity is Ibn al-Qayyim's intention. Another source text for his discussion is *al-Umm* by al-Shāfiʿī; this text also distinguishes clearly between pagan and *kitābī* wives of a convert and is emphatic that *kitābī* wives do not need to change to remain married to their husband. Ibn al-Qayyim does not adopt al-Shāfiʿī's distinction and omits his emphasis on the *kitābī* wife's right to continue her religion. This elision of terms is particularly confusing in a text focusing on Jews and Christians living under Muslim rule and written in a socio-historical context in which pagans and Zoroastrians played an almost negligible role.¹⁰³ One of the implications of the elision is the suggestion that, like the pagan, the *kitābī* wife of the convert should also convert in order to remain under her husband's roof. If this implied message is intentional, it contrasts markedly with Ibn al-Qayyim's approach to the female convert, which is more permissive than that of his contemporaries and predecessors. However, it does correspond to other passages in his text that encourage the wife to co-convert, particularly when one family has already taken this step.

6 The Rationale of Encouraging the Wife's Conversion

Ibn al-Qayyim cannot have been in doubt about the legal consensus that the *kitābī* wife of a Muslim was not required to convert when her husband did. He never questions this consensus, but the rulings that he transmits relating to non-converting *dhimmī* wives have a harsher and more punitive tone than his writing about other relatives of the convert.

It is likely that Ibn al-Qayyim's tone reflects his concern that the convert's wife should convert as well. This would correspond to his wider concern to increase conversion to Islam and his awareness of the mother's influence over the child's religious upbringing. Although he recognizes the authority of the father over the social affiliation of his children, Ibn al-Qayyim regards the mother as key to a child's religious formation. In *Aḥkām ahl al-dhimma* he

103 There is no evidence of pagan or Zoroastrian communities in seventh/thirteenth and eighth/fourteenth-century Syria.

specifies that the Mālikī school does not regard the mother's religion as relevant to her child's status as Muslim or non-Muslim and then explains why the mother's Islam should not be discounted:

The responsibility for upbringing and nurture and guardianship lies with the mother and not the father. The father's main responsibility for the child is in providing for his material needs, and the mother has more responsibility for his upbringing and nurture. So the subordination of the child to his mother in regard to Islam is, if not greater than his subordination to the father, at least equivalent to him.¹⁰⁴

Alongside the more general respect that Ibn al-Qayyim's writings reveal for a mother's care for her children,¹⁰⁵ this passage reveals his awareness of the mother's influence over the religious upbringing of the child, despite the formal control of the father.

His view finds echoes throughout the Islamic tradition. As Uriel Simonsohn has shown, the influence of women, whether good or bad, over their menfolk's religion is a familiar feature of many literary discussions. For example, the descriptions of caliphs' mothers, many of whom came from non-Muslim backgrounds, often reveal concerns that they instilled a love of their backgrounds into their sons or worse still, a love of their religion itself.¹⁰⁶ Not only the formative role of the mother in shaping her child's character and affections in the early years,¹⁰⁷ but also her authority over his body seems to have played an important role in shaping these concerns. The mother's control over the young child's consumption and state of purity made her responsible for important ritual aspects of the child's religion and enabled her, if she wished, to corrupt it by introducing forbidden foods or acts.¹⁰⁸

In addition to maternal agency, Ibn al-Qayyim's perception also relates to a view of the wife as forming the character of the domestic space in which the husband's faith finds full expression. The image presented by al-Nābulusī and referred to previously, of the Muslim convert retreating to his *kitābī* family to sigh over his new religious affiliation, leans heavily on the notion of the family, and especially the wife, as formative for the religious grounding of an

104 Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:508.

105 On positive assessments of motherhood in the Islamic tradition see Giladi, *Muslim Midwives*, 37–56.

106 Simonsohn, *Female Power*, 140.

107 Giladi, *Muslim Midwives*, 24–8.

108 Simonsohn, *Female Power*, 145–150.

individual.¹⁰⁹ Ibn al-Qayyim's interpretation of rulings relating to both male and female conversion are similarly oriented. Even if the measures that he describes in *Aḥkām ahl al-dhimma* were unlikely to have any real effect on the sincerity of a Jew or Christian who was forced to convert to Islam, they reflect his own view of the importance of female influence in the religious orientation of husbands and children.

7 Conclusion

Husband-only conversion was an important strategy enabling a Jew or Christian to escape the exclusion, financial pressure or oppression meted out to non-Muslims in certain historical periods. It was permitted in all Islamic legal schools, and it is possible that conversion rather than marriage was the reason for many mixed households in the seventh/thirteenth and eighth/fourteenth centuries. This phenomenon is part of the wider practice described by Tamer El-Leithy as single-generation conversion but this article has focused on the spousal aspect rather than the relevance for subsequent generations.

Concerns that husband-only conversion was insincere and that the convert's non-Muslim wife or family encouraged them to intrigue against their new religion, led this practice to feature in polemical discourse about converts. Around the seventh/thirteenth and eighth/fourteenth centuries, punitive measures for non-converting families were announced as part of an attempt to encourage the entire family to enter Islam. In Ibn al-Qayyim's *Aḥkām ahl al-dhimma* similar concerns to encourage the family's conversion are evident. In general Ibn al-Qayyim advocates positive motivation rather than coercion to encourage conversion to Islam and there is little in his rulings that would have sanctioned the punitive measures mentioned by al-Maqrīzī. However, he displays a harsher attitude for a non-converting wife. This contrasts with his concern for the woman's welfare when discussing the female convert to Islam without her husband.

The concerns about the non-converting wife that are visible in *Aḥkām ahl al-dhimma* as well as other more polemical texts reflect a sensitivity to the wife's relevance for the religious orientation of her husband and the household. Although other forms of kinship and inter-religious relation are tolerated and even welcomed by Islamic jurists such as Ibn al-Qayyim, a Muslim man's marriage to his non-converting wife is regarded as a problem, and a potential threat to the convert's religious integrity.

¹⁰⁹ al-Nābulusī, *Tajrid sayf al-himma*, 49.

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