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## THE MAGHRIB IN EUROPE: ROYAL SLAVES AND ISLAMIC INSTITUTIONS IN EIGHTEENTH-CENTURY SPAIN\*

Did a slave mosque really operate for decades, out in the open, during the eighteenth century in the port city of Cartagena in Murcia, Spain? An alarmed Inquisitorial report submitted to the Spanish king in September 1769 left no room for doubt — the hospital of the Muslim arsenal slaves in Cartagena functioned as a mosque.<sup>1</sup> Its live-in muezzin recited the *adhān*, the call to worship,

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<sup>1</sup> Archivo General de Simancas (hereafter AGS), Secretaría de Marina (hereafter SMA), Leg. 709; and Archivo Histórico Nacional (hereafter AHN), Estado, Leg. 2843/2, no. 184. Over the past century and a half, several scholars have noted the presence of the hospital-mosque. Late nineteenth- and early twentieth-century official chroniclers of Cartagena unearthed important records but treated the case as a curiosity and failed to reconstruct its history faithfully. See Isidoro Martínez Rizo, *Fechas y Fechos de Cartagena* (Cartagena, 1894); and Federico Casal Martínez, *Historia de las calles de Cartagena* (Cartagena, 1930). Historians writing at the turn of the twentieth century mistook the institution for the last vestige of Morisco life in Spain, see Manuel Danvila y Collado, *La expulsión de los moriscos españoles: Conferencias pronunciadas en el Ateneo de Madrid por Manuel Danvila y Collado* (Madrid, 1889), 318; and Henry Charles Lea, *A History of the Inquisition in Spain*, 4 vols. (New York, 1906–22), iii, 269. More recently, and on the basis of the documents in AGS, SMA, Leg. 709, Maximiliano Barrio Gozalo has briefly described the history of the institution, but interpreted it as an aspect of the slaves' religious expression reduced to the private sphere, and ignored the public and corporative dimensions of the hospital-mosque. See Maximiliano Barrio Gozalo, 'La esclavitud en el Mediterráneo occidental en el siglo XVIII: Los esclavos del rey en España', *Critica Storica*, xvii, 2 (1980). Shortened versions of the article were published as Maximiliano Barrio Gozalo, 'La mano de obra esclava en el arsenal de Cartagena a mediados del Setecientos', *Investigaciones históricas. Época moderna y contemporánea*, xvii (1997); and Maximiliano Barrio Gozalo, 'Esclavos musulmanes en la España del siglo XVIII', *Anales de historia antigua, medieval y moderna*, xlix (2015). On the basis of an undated Inquisitorial document from the second half of the 1730s (AHN, Inquisition, Leg. 3733, fo. 301), Bernard Vincent mentioned the hospital-mosque in an illuminating article on Muslims in seventeenth-century Spain, but misdated its establishment to the 1690s. See Bernard Vincent, *El río morisco*, 2nd edn (Valencia, 2006), 75–88. The most recent synthesis, offered by Eloy Martín, relies on Barrio Gozalo and Vincent, and reproduces the latter's

from a room on the second floor, and believers convened twice a day. They left their shoes downstairs, walked up the entrance steps barefoot, kissed the steps, and prayed loudly in a large hall adorned with a lamp with three wicks and floors covered by reed prayer mats. Worse, the report states, not only had the hospital turned into a mosque, but it also acted as a sanctuary that provided asylum for fugitive Muslims. In 1768, a Muslim slave tried to flee Cartagena on the frigate of the Moroccan sultan, who had come to pick up Moroccan slaves as part of the peace agreement signed by Morocco and Spain on 28 May 1767. The slave was handed over to the Spanish authorities but managed to escape again, this time to the mosque, where he was provided with temporary asylum. This sanctuary allowed him to negotiate the conditions of his surrender. Indeed, he submitted himself to the authorities only after he was granted a pardon. The report's sensationalist tone ('they kiss the stairs [and pray] in loud voice') and its last bit about asylum, which proved to be an Inquisitorial fabrication, were intended to lead to the closure of the hospital-mosque.<sup>2</sup> The plan succeeded, and in the autumn of 1770 the structure was razed to the ground.

The institution, however, did exist, as attested by numerous records. In fact, by 1770, it had accrued a long history. It was the second incarnation of another structure that had served the slaves since 1734. Its story begins on 6 December 1733 when Faxia, a free Muslim woman and citizen (*vecina*) of Cartagena, bought a house centrally located by the Plazuela de San Gines, from Doña Juana de Navarrete, a citizen of Murcia.<sup>3</sup> A few months later, in front of a notary who worked for the arsenal, Faxia transferred possession rights of the house to the Muslim arsenal slaves, mostly Maghrebi war captives, and declared that she had bought it on their behalf with money from their collective savings fund so that it would serve them 'as a shelter and charity hospital for the poor'.<sup>4</sup> The residents and the municipal and ecclesiastic authorities were unhappy about what

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misdating of the institution. See Eloy Martín Corrales, *Muslims in Spain, 1492–1814: Living and Negotiating in the Land of the Infidel* (Leiden, 2021), 203–8.

<sup>2</sup> A trail of Inquisitorial records preceding the report makes clear that the Inquisitors knew the place had never served as an asylum: see AHN, Estado, Leg. 4349, 22 and 26 Jan. 1768; and AHN, Inquisition, Lib. 680, 19 Feb., 22 Apr. and 17 Jun. 1768; 26 Mar. and 13 Apr. 1769.

<sup>3</sup> On the term 'vecino', see Tamar Herzog, *Defining Nations: Immigrants and Citizens in Early Modern Spain and Spanish America* (New Haven, 2011).

<sup>4</sup> AGS, SMA, Leg. 709, copy of a notarial record from 4 May 1734.

nearly everybody referred to as the 'hospital-mosque'.<sup>5</sup> In the following two decades, residents broke in at least once, smashing the lamp and burning the prayer mats. Over time, and in the face of the support of the arsenal officers and the local Mercedarian convent, the townspeople grudgingly came to accept it. In the first two months of 1755, the city council negotiated with the slaves to swap the house for another newly erected building on the city's outskirts, next to the Convent of St Diego. When this structure was demolished in 1770, the arsenal officers offered the slaves' leaders 6223 *reales devellón*, the appraised value of the hospital-mosque, but the slaves refused to take the money, insisting instead on receiving a space for their hospital to celebrate funerary rites for dead slaves. Four years later, under Algerian pressure, the arsenal officers, with royal and Inquisitorial permission, were ordered to find a fitting plot and rebuild the slaves' structure. The construction took a little more than a month and was completed on 9 July 1774.

Hospitals such as that of the arsenal slaves of Cartagena, as well as cemeteries and spaces for prayer, became common features of seventeenth- and eighteenth-century European ports in the Mediterranean. With the establishment of its hospital-mosque, Cartagena joined cities such as La Valletta (Malta), Naples, Civitavecchia, Livorno, Genoa, Villefranche-sur-Mer, Toulon and Marseille, all of which served royal galleys and thus had, at least seasonally, a significant presence of Muslim galley slaves. The handful of studies that focus on these institutions suggest that their portability and longevity were the product of interactions between royal, municipal and Maghrebi authorities. The story goes that,

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<sup>5</sup> The noun 'mosque' was first introduced in the late 1730s, when Algerian Dey Ibrahim ibn Ramadan referred to the building as a 'mosque or charity house' in a grievance against local residents who had vandalized the sacred space (AHN, Inquisition, Leg. 3733, fo. 301). The document is undated, but given that it is based on an account sent from Algiers by Alonso Zorilla, who served as the hospital administrator from December 1734 until his death on 5 July 1740, the Inquisition must have received this account at some point between September 1735 and September 1739. See Bonifacio Porres Alonso, 'Los hospitales trinitarios de Argel y Túnez', *Hispania Sacra*, xlviii, no. 98 (1996), 688–9. In 1754–5, residents, slaves, notaries and municipal authorities comfortably referred to the establishment as either 'a little hospital' or 'a hospital or a mosque' (Archivo Regional de Murcia, NOT. Leg. 5755, 18 Feb. 1755, fos. 152<sup>r</sup>–155<sup>v</sup>). The juxtaposition of these signifiers irritated Marine State Secretary Julián de Arraiga y Ribera, who in 1757, in a letter to a Cartagena Marine General Intendant, wrote, 'A house which your honour calls once a mosque, and other times a hospital well, what the noun "hospital" designates is very different from a mosque' (AGS, SMA, Leg. 709, 7 Sept. 1757; and Archivo del Arsenal de Cartagena, Reales Ordenes: Caja 41, no. 4, p. 25 Jun. 1757).

under Maghrebi pressure, European governmental bodies often allowed Muslim slaves to have burial plots and hospitals, but local authorities or residents were opposed to these concessions. While political actors were important, this historical account in its current form downplays the role of the main protagonists, the slaves themselves, who collectively initiated the processes that led to the formation of these institutions, often physically built them, were their only beneficiaries and were socially organized as a community around them.<sup>6</sup> To understand the formation and maintenance of Islamic communal institutions in European ports, we need to refocus the historical narrative on royal slaves, their interactions with the marine jurisdiction to which they were bound, different groups of Maghrebis, and local and regional political actors. The richly documented case of eighteenth-century Cartagena provides an ideal site for this investigation.

The story of the hospital-mosque of Cartagena is one of collective action, only its protagonists were Muslim slaves, who skilfully used their status as royal slaves as well as the corporate logic of early modern Spain to transplant a number of Islamic hybrid communal institutions that should not have existed in Spain, and in this way organize themselves as a community. It is thus a story that might reshape what we thought we knew about Islam and slavery in eighteenth-century Spain and in the European Mediterranean more broadly. We contend that institutions such as the hospital-mosque of Cartagena are indicative of slaves' collective action and of Islamic legal forms the slaves had imported with them from the Maghrib. Indeed, all the actors involved in the case of Cartagena framed the existence of the crown's slaves in collective terms. This was a social category formed by the arsenal officials and municipal council, who treated the slaves as a social body, and by Algiers, which afforded the slaves, as a defined group, its protection. The social category became an actual group capable of action as a result of the slaves' self-constitution as a collective in relation to Islamic institutions — both unknown and yet familiar to their Spanish overseers, and in contradistinction to other groups of Maghrebis in Cartagena. The

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<sup>6</sup> Scholars working on the Italian Peninsula have noted the importance of such institutions and of letter-exchange communications that Muslim slaves maintained with their home communities, in the social organization of slaves' lives: see Cesare Santus, *Il 'turco' a Livorno: Incontri con l'Islam nella Toscana del Seicento* (Milan, 2019), 30–54; and Salvatore Bono, *Schiavi musulmani nell'Italia moderna: Galeotti, vù cumprá, domestici* (Naples, 1999), 164–90, 220–5 and 237.

struggles among these groups, which included bonded and free Maghrebis, and the collective privileges the royal slaves claimed and won, complicate the idea of a clear-cut dichotomy between free and bonded people. The privilege of the royal slaves (also known as galley or arsenal slaves, terms used interchangeably), who were considered enemies of Christianity, manifested itself in the Islamic legal institutions they were allowed to establish in Cartagena, which redefined the experience and conditions of their enslavement and expanded the local and imperial legal landscape. If we shift our local and regional perspective to a global one and look at slavery in the broader Hispanic world, the case of the arsenal slaves no longer seems unique. As scholars of slavery in colonial Latin America have demonstrated, individual slaves used the overlapping jurisdictions that regulated their lives to reshape their experiences and the relevant legislation that attended their existence.<sup>7</sup> Of particular interest in this case are studies of slaves who most commonly engaged with the law as collectives, employing a confraternal framework, which helped them organize themselves as a community.<sup>8</sup> Even more relevant for comparative purposes is María Elena Díaz's study of the slave town of El Cobre (Santiago del Prado) in eastern Cuba. The privately owned slaves of El Cobre, who became royal when the crown confiscated the mines in 1670, took advantage of their royal status to claim a corporate identity and form a new community.<sup>9</sup> Together, these studies demonstrate how slaves' engagement with the law offers insight into their self-imagining, the strategies they devised to expand

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<sup>7</sup> Alejandro de la Fuente, 'Slaves and the Creation of Legal Rights in Cuba: *Coartación and Papel*', *Hispanic American Historical Review*, lxxvii, 4 (2011); and Chloe L. Ireton, 'Black Africans' Freedom Litigation Suits to Define Just War and Just Slavery in the Early Modern Spanish Empire', *Renaissance Quarterly*, lxxiii, 4 (2020), 1277–1319

<sup>8</sup> Karen B. Graubart, 'So color de una cofradía': Catholic Confraternities and the Development of Afro-Peruvian Ethnicities in Early Colonial Peru', *Slavery and Abolition*, xxxiii, 1 (2012); Esteban Mira Caballos, 'Cofradías étnicas en la España Moderna: Una aproximación al estado de la cuestión', *Hispania Sacra*, lxxvi, extra-2 (2014); Nicole von Germeten, 'Black Brotherhoods in Mexico City', in Jorge Cañizares-Esguerra, Matt D. Childs and James Sidbury (eds.), *The Black Urban Atlantic in the Age of the Slave Trade* (Philadelphia, 2013).

<sup>9</sup> María Elena Díaz, *The Virgin, the King, and the Royal Slaves of El Cobre: Negotiating Freedom in Colonial Cuba, 1670–1780* (Stanford, 2000). On why Black slaves should not have been able to incorporate, see María Elena Martínez, 'The Black Blood of New Spain: *Limpieza de Sangre*, Racial Violence, and Gendered Power in Early Colonial Mexico', *William and Mary Quarterly*, lxi, 3 (2004).

their liberties, and how these actions restructured the legal system.

Notwithstanding these similarities, the case of the royal slaves of Cartagena is characteristically Mediterranean. Two differences stand out — the location of the communities in question and their ethno-religious belonging. The town of El Cobre was located at the imperial fringes away from the sovereign's gaze.<sup>10</sup> Even if Cartagena were a Mediterranean frontier city, it was simultaneously an important Spanish Bourbon port city, showcasing the dynasty's enlightened reforms and ideals, especially through military architecture. In other words, the presence of the mosque and of an Islamic associative body at the heart of Cartagena was public, and contradictory of the royal enlightened project in a way a slave town at the imperial margins could never be. Additionally, unlike members of African slaves' *cofradías*, who were all Christians, or the citizens of El Cobre, who were Christians and even claimed nativeness and loyalty to the king as part of their efforts to establish and maintain their community, the slaves of Cartagena were majority Muslim and considered enemies.<sup>11</sup> Their carving out of a corporative space in Cartagena and forcing an expansion of Spain's plural legal regime to include an Islamic and Maghrebi jurisdiction required different strategies than those of Christian slaves and highlight the uniquely Mediterranean features of slavery in Cartagena.<sup>12</sup>

The history of Muslim slavery in early modern Spain is located at the intersection of two chronicles of disappearance. According to the first, the expulsion between 1609 and 1614 of the Moriscos (Spain's Muslims who were forced to convert to Christianity and their descendants) brought an end to the centuries-long free, albeit repressed, Islamic presence in Christian Iberia. This existence is attested at least since the second half of the eleventh

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<sup>10</sup> This was also the case of the maroon cities that Jane Landers studies: Jane Landers, 'García Real de Santa Teresa de Mose: A Free Black Town in Spanish Colonia Florida', *American Historical Review*, xcv, 1 (1990).

<sup>11</sup> There is evidence of confraternities of *Berberiscos* converted to Christianity from the first half of the seventeenth century: Francisco Javier Quintana Álvarez, 'La cofradía del Santo Ángel custodio de Gibraltar: Cofradía de los Berberiscos (constituciones de 1637)', in Salvador Rodríguez Becerra and Enrique Gómez Martínez (eds.), *La religiosidad popular en Andalucía: I encuentro de investigadores en Andújar* (Andújar, 2019).

<sup>12</sup> Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900* (Cambridge, 2001).

century by the presence of Mudejars, Muslims who remained in territories conquered by Christian rulers and continued to live openly as Muslims, even if under some restrictions imposed by their new rulers.<sup>13</sup> Soon after the Christian conquest of Granada in 1492, Mudejars were forced to convert to Christianity, accept enslavement, or migrate. Many among those who converted and stayed, now known as Moriscos, continued to practise Islam, only increasingly clandestinely.<sup>14</sup> According to this first narrative, their expulsion marked the end of a free, political Islamic presence on Spanish soil. According to the second disappearance chronicle, by the eighteenth century slavery ceased to exist in peninsular Spain and became a problem in its Latin American colonies.<sup>15</sup>

These narratives fit in well with the idea that Muslims entered European history for the first time since the Middle Ages as colonized subjects as a result of the imperial expansion of the nineteenth century.<sup>16</sup> However, thousands of Muslims and slaves continued to live in Spain in particular, and Europe in general, after 1614 and before the turn of the nineteenth century.<sup>17</sup> Most of them were slaves taken in skirmishes around the Spanish colonies in

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<sup>13</sup> Scholars have explored various aspects of Mudjars' socio-political existence and communal institutions, the most important of which was the Aljama that provided a framework for other institutions such as awqāf, madrasas, mosques, hospitals, cemeteries, etc.: see Brian A. Catlos, *The Victors and the Vanquished: Christians and Muslims of Catalonia and Aragon, 1050–1300* (Cambridge, 2004). For a recent introduction, see Filomena Barros, 'Living as Muslims Under Christian Rule: The Mudejars', in Maribel Fiero (ed.), *The Routledge Handbook of Muslim Iberia* (London and NY, 2020), ch. 24.

<sup>14</sup> Luis F. Bernabé Pons, *Los Moriscos: conflicto, expulsión y diáspora* (Madrid, 2009), 16–66 and 84–107.

<sup>15</sup> Tamar Herzog, 'How Did Early-Modern Slaves in Spain Disappear? The Antecedents', *Republics of Letters: A Journal for the Study of Knowledge, Politics, and the Arts*, iii, 1 (2012). An increasing number of studies have begun qualifying this narrative, see for a recent example: José Miguel López García, *La esclavitud a finales del antiguo régimen: Madrid, 1701–1837 de moros de presa a negros de nación* (Madrid, 2020).

<sup>16</sup> Jocelyne Dakhliā, 'Musulmans en France et en Grande-Bretagne à l'époque moderne: Exemplaires et invisibles', in Jocelyne Dakhliā and Bernard Vincent (eds.), *Les musulmans dans l'histoire de l'Europe*, 2 vols. (Paris, 2011), i, *Une intégration invisible*.

<sup>17</sup> On the continuous presence of Moriscos in Spain after the expulsion, see Luis F. Bernabé Pons, 'Identity, Mixed Unions and Endogamy of the Moriscos: The Assimilation of the New Converts Revisited', *Mediterranean Historical Review*, xxxv, 1 (2020); Trevor Dadson, *Los moriscos de Villarrubia de los ojos (siglos XV–XVIII): Historia de una minoría asimilada, expulsada y reintegrada* (Madrid, 2015); Enrique Soria Mesa, 'Los moriscos que se quedaron: La permanencia de la población de origen islámico en la España moderna (Reino de Granada, siglos XVII–XVIII)', *Vínculos de historia*, 1 (2012); and Vincent, *El río morisco*, 75–88.



North Africa or through maritime privateering.<sup>18</sup> They differed from their Mudejar and Morisco predecessors in two ways. The majority of them were not peninsular natives but rather of Maghrebi origin, and they were not a free though repressed collective but, rather, outright slaves. In other words, their bonded status and religion excluded them, at least from a legal point of view, from the body politic.

Recently, Jocelyne Dakhliya has called on historians to account for the diversity of methods by which Maghrebis were inserted into European societies and to avoid treating them exclusively in terms of their religion (conversion and silent assimilation) or their bonded status (enslavement and manumission). While the axes of labour and religion are vital, this article seeks both to respond to Dakhliya's challenge and to engage with research questions formulated by scholars of Atlantic slavery by exploring the civic, legal, political and economic aspects of the Cartagena slave collective. Delving into these aspects of the slaves' existence means accounting for slaves' *collective* action, not so much in terms of revolt, regime change, or the creation of a new nation, but rather on an everyday level, with a particular focus on slaves' legal engagement with a host of jurisdictions, the legal instruments they had brought from the Maghrib and installed in Spain, and the social body they made.<sup>19</sup> Ultimately, we seek to understand how the slaves struggled to parlay their status as the king's property into increased collective liberties, and how this struggle resulted in the expansion of a legal structure that incorporated Muslim and Maghrebi jurisdictions and legal forms.

Numerous manuscripts and published traces attest to the existence of the hospital-mosque, the treatment of the slaves as a corporation, and the Islamic legal instruments the slaves employed to manifest themselves as a community. The sources include notarial records that document the purchase of the house (1733), transfer of possession to the slaves' collective (1734) and the exchange of the structure for another (1755). Municipal records and the royal cadaster from 1755 shed additional light on this swap and how the institution was municipally and royally perceived. A Spanish

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<sup>18</sup> Martín Corrales, *Muslims in Spain*.

<sup>19</sup> Walter Johnson, 'On Agency', *Journal of Social History*, xxxvii, 1 (2003), 118–19; and Rebecca J. Scott, 'Small-Scale Dynamics of Large-Scale Processes', *American Historical Review*, cv, 2 (2000).

translation of an Arabic document composed by the slaves, also from 1755, provides a glimpse into the slaves' perspective on their institutions. Marine administrative correspondence from 1757 concerns the institution's functions and the degree to which they were public. In his travelogue the Moroccan ambassador describes his encounter in Cartagena in 1768 with bonded and freed Maghrebis. Algerian grievances from the second half of the 1730s, 1761 and 1772 echo slaves' requests that Algiers protect the institution and provide an Algerian perspective on its role as the slaves' guardian. Finally, in 1768, the Inquisition ordered the compilation of all relevant records (including a number of the above) and prepared a report for the king. While the corpus does not lend itself to the reconstruction of stories of individual slaves — due to the absence of court records or Inquisitorial trials — it offers an exceptional view of the collective action of a Muslim slave community.

This article offers three interpretative discussions, each targeting a deeper layer of the records. The first opened this text and introduced the protagonists and the history of the hospital-mosque — when it was purchased, when the slaves gained possession of it and when it changed locations. This initial reading also includes the reconstruction of the relations between the arsenal slaves and other Maghrebis in town. The second thread involves the claim that a number of jurisdictions treated the slaves as if they formed a corporation with a legal persona and the power to compete over resources, purchase, own, and barter real estate property and maintain a religious foundation. Our final reading seeks to reconstruct the hybrid Islamic legal institutions (*waqf* and *bayt al-mal*) that the slaves exported to Cartagena from the Maghrib, and elucidate how they used these to constitute a collective. First, however, we wish to provide a broad comparative perspective on the emergence of Islamic institutions in early modern European port cities in the Mediterranean.

## I

### ISLAMIC INSTITUTIONS IN THE EUROPEAN MEDITERRANEAN

In the early modern period, a host of Islamic institutions, including cemeteries, hospitals and spaces for prayer, became common

features of port cities in Mediterranean Europe.<sup>20</sup> Records from the end of the seventeenth century reveal orders to allocate burial spaces to slaves or to replace existing plots with new ones. In 1675, the Muslim slaves in La Valletta were assigned a new plot to prevent the inclusion of the old one within the city walls, which were expanded at the time. In Marseille, in the mid eighteenth century, nobody could remember when a ‘cimetière des Turcs’ had been founded along the arsenal walls or who paid for it, but it was clear it had been there for nearly a century.<sup>21</sup> In Genoa, where local resistance to the establishment of a Muslim cemetery was more pronounced, the slaves received a cemetery outside the city walls only in 1717.<sup>22</sup> In Naples, the cadavers of Muslim slaves were dumped in a ditch until 1742, when rumours about dogs devouring dead bodies reached the Dey of Tripoli, who rushed his ambassador to request from the Neapolitan authorities a cemetery for the slaves.<sup>23</sup> At stake were fears of pollution: Muslim rulers were worried about the desecration of their subjects’ bodies, Christians about the body social. The sources also describe spaces in which slaves celebrated funerary rituals and prayed together. Their emergence was partly owing to the fact that, for Muslims, any space can serve as one for ritual prayer, ‘hence the saying of the prophet that he had been given the whole world as a *masdjid* (mosque)’.<sup>24</sup> The Ottoman Kadi Ma’cûncizâde Mustafa Efendi, held captive in La Valletta in 1597, reported the earliest one: a

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<sup>20</sup> On the churches of Christians enslaved in the Maghrib, see Ellen G. Friedman, ‘Trinitarian Hospitals in Algiers: An Early Example of Health Care for Prisoners of War’, *Catholic Historical Review*, lxvi, 4 (1980); and Porres Alonso, ‘Los hospitales trinitarios de Argel y Túnez’

<sup>21</sup> On Marseille, see Régis Bertrand, ‘Les cimetières des “esclaves turcs” des arsenaux de Marseille et de Toulon au XVIII<sup>e</sup> siècle’, *Revue des mondes musulmans et de la Méditerranée*, xcix–c (2002), 205–6; on Malta, Godfrey Wettinger, *Slavery in the Islands of Malta and Gozo, c.1000–1812* (Malta, 2002), 444.

<sup>22</sup> Salvatore Bono, *Schiavi: Una storia mediterranea (XVI–XIX secolo)* (Bologna, 2016), 237.

<sup>23</sup> Teobaldo Filesi, *Un secolo di rapporti tra Napoli e Tripoli: 1734–1835* (Naples, 1983), 54.

<sup>24</sup> John Pedersen, R. A. Kern and Ernst Diaz, ‘Masdjid’, in *Encyclopaedia of Islam*, 1st edn, 4 vols. plus suppl., ed. M. Th. Houtsma *et al.* (Leiden, 1913–1936). While these ‘mosques’ were not exclusively or primarily designated as mosques of the kind that would host the special Friday afternoon prayers, they still served as a space for prayer. Indeed, even the slaves’ cemeteries could serve as a place for prayer and thus be thought of as a mosque, *ibid.* More specifically, hospitals in the Ottoman world often reserved a space that served as a mosque, and their staff often included muezzins and imams, in addition to launderers: Miri Shefer, ‘Charity and Hospitality: Hospitals in the Ottoman Empire in the Early Modern Period’, in Michael Bonner, Mine Ener and Amy Singer (eds.), *Poverty and Charity in Middle Eastern Contexts* (New York, 2003), 131.

hall in the prison that was run by slaves who prayed there during Ramadan.<sup>25</sup> Similar spaces are mentioned in 1668 in Livorno and in 1707 in Civitavecchia.<sup>26</sup> They were simple and rarely stood alone. In Marseille, the Muslim slaves were assigned a little room in the hospital of the convict oarsmen.<sup>27</sup> In Villefranche-sur-Mer in 1724 and Genoa in 1737 the ‘mosque’ was in a little structure at the very end of the port, where the galleys moored.<sup>28</sup>

The presence of Muslim burial spaces could imply a certain degree of acceptance on the part of local authorities, but sometimes the latter disobeyed royal orders and prevented the establishment of such spaces. In Naples, local opposition halted the creation of a mosque that the crown, on Tripolitan insistence and with the support of the captain-general of the galleys, allocated to galley slaves. One of the arguments used by the official of the Neapolitan government, who disregarded the concession, was that the people of Naples and its clergy were so attached to their Christian religion that obeying the order would create a scandal with major consequences.<sup>29</sup> Struggles among the crown, local authorities and Maghrebi rulers formed a crucial element in the histories of these Muslim institutions.

On a regional level, the development of Muslim institutions was the result of claims made by North African rulers on behalf of Maghrebis enslaved in Europe. Such claims responded to the grievances of enslaved Maghrebis and alluded to mutual expectations among Mediterranean rulers regarding the privileges

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<sup>25</sup> Ma'cûncizâde Mustafa Efendi, *Le captif de Malte: Récit autobiographique d'un cadî ottoman*, trans. Hayri G.Özkoray (Toulouse, 2019), 42 and 53; Wettinger, *Slavery in the Islands of Malta and Gozo*, 446.

<sup>26</sup> On Livorno, see Francesco Pera (ed.), *Curiosità livornesi inedite o rare* (First publ. Livorno, 1888; Livorno, 1971), 117–18; Cesare Santus and Guillaume Calafat, ‘Les avatars du “Turc”: Esclaves et commerçants musulmans en Toscane (1600–1750)’, in Dakhliia and Vincent (eds.), *Les musulmans dans l’histoire de l’Europe*; and Mathieu Grenet, ‘Enterrer les “Turcs” à Livourne en 1762: sépultures étrangères, espace littoraux et ségrégation spatiale’, in François Brizay and Thierry Sauzeau (eds.), *Les étrangers et les littoraux européens et méditerranéens: à l’époque moderne (fin XV<sup>e</sup>–début XIX<sup>e</sup> siècle)* (Rennes, 2021). On Civitavecchia, see Bono, *Schiavi*, 244.

<sup>27</sup> André Zysberg, *Les galériens: Vies et destins de 60.000 forçats sur les galères de France 1680–1748* (Paris, 1987), 356; Jean-Baptiste Xambo, ‘Servitude et droits de transmission: La condition des galériens de Louis XIV’, *Revue d’Histoire Moderne et Contemporaine*, lxiv, 2 (2017), 177.

<sup>28</sup> Marie-Madeleine Viré, ‘Une inscription arabe du XVIII<sup>e</sup> siècle à Villefranche-sur-mer’, *Arabica*, vii, 3 (1960), 301–3; and Bono, *Schiavi*, 234–5

<sup>29</sup> Filesi, *Un secolo di rapporti tra Napoli e Tripoli*, 56

that should apply to all slaves — not to be forced to convert, to be buried according to their religious rites and to not have their cadavers desecrated. While these expectations were widely shared, they were often violated, which led to retaliatory actions.<sup>30</sup> While on occasion Algerian rulers cared for individual slaves, the current evidence shows that most of their efforts to support their subjects enslaved in Spain dealt with these slaves as a collective by protecting their communal institutions.<sup>31</sup> During the eighteenth century, the Deys of Algiers intervened at least three times to protect the hospital-mosque and cemetery of the royal slaves of Cartagena.<sup>32</sup> In the late 1730s, Dey Ibrahim ben Ramadan threatened to shut down the churches in Algiers unless Christian aggression stopped; in 1761, in response to news from the arsenal slaves, Dey Baba Ali issued a similar threat; finally, in 1772, Dey Muhammad ibn Uthman demanded that Spain give the slaves a new mosque and funeral house. Such interventions solidified the status of the royal slaves as a social body with its own institutions and privileges. In a way, the preferential treatment of royal slaves was an inevitable consequence of negotiations that played out between two sovereigns over slaves they owned, as opposed to merely slaves their subjects owned. It was also the source of the seemingly paradoxical situation in which state slaves, whose labour conditions were significantly harsher than those of private slaves, benefited from collective privileges that were not granted to slaves owned by individuals.

At the local level, political power was subject to the reactions of local authorities, clergy and town populations when trying to establish a Muslim cemetery or hospital. For these reasons, the

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<sup>30</sup> Daniel Hershenzon, *The Captive Sea: Slavery, Communication, and Commerce in Early Modern Spain and the Mediterranean* (Philadelphia, 2018), 118–39.

<sup>31</sup> Yet, there were always exceptions. For example, on Algerian support to a privately owned Algerian slave, see Juan Vernet Ginés, *El rescate del arráez argelí Bibi, prisionero en Mallorca* (Tetouán, 1952). More research is necessary to understand better the ransom agenda of different Maghrebi rulers. It seems as if Alaouite Sultans, for example, always ransomed both private and state slaves, and Moroccan slaves as well as other enslaved Maghrebis.

<sup>32</sup> AHN, Inquisition, Leg. 3733, fo. 301; AGS, SMA, Leg. 705, 16 Aug. 1761; and AGS, SMA, Leg. 709, 3 Feb. 1772. In protecting the slaves, their waqf and mosque, Algerian rulers were following a policy Algiers had pursued since the late-seventeenth century. Its goal was to increase oversight of the proper management of waqfs and make sure waqfs' properties were not usurped illegally. See Miriam Hoexter, *Endowments, Rulers, and Community: Waqf al-Haramayn in Ottoman Algiers* (Leiden, 1998), 59. Beyond these instances, Algiers often intervened to protect the arsenal slaves' living conditions: Archives Nationales (France), AE, B1 (Consulat d'Alger), 126, fo. 59–63, 20 Oct. 1747; and 130, fo. 344–5, 6 Oct. 1762.

spaces assigned to the slaves were often located outside city walls, at the ports, in the arsenal, or in the slaves' prisons. This fraught environment was also the reason that walls often enclosed Muslim cemeteries, both to prevent the residents from desecrating the space and to shield them from directly viewing Muslim funerary rites. Such physical boundaries separated the two competing jurisdictions, that of the arsenal (royal) and that of the city. Even when cemeteries existed, the collective manifestation of public Muslim rites remained a delicate matter, and Muslim pallbearers were often mocked, insulted and stoned while carrying their dead to the cemetery. These episodes point to the fragility of the arrangements, and accounts for the urban authorities' tendencies to hide Muslim rites from the Christian gaze by locating them at the outskirts of the city or in the confined space of the maritime establishment, which fell under royal jurisdiction.<sup>33</sup>

While the tension between local, royal and Maghrebi authorities is important to the history of these institutions, it is only by moving our focus to the slaves that we can explore how these places were appropriated, determine the precise identity of their users and identify the Maghrebi and Islamic legal forms that slaves employed to form these spaces. The spaces or buildings were usually allocated by the king or naval administration, although the records are often silent about their status. Were they given as a charitable gift or a loan? Did the slaves purchase them, or independently appropriate plots of land and build the structures themselves? An Arabic inscription found at the castle of Villefranche, which must have originally been placed on the wall of the Islamic hospital or mosque by the port, suggests that Muslim collective life was organized around the spaces, their foundation and their management. While it does not shed light on the question of how these spaces were appropriated, it points to another enigma. The inscription opens with the Muslim profession of faith (*shahāda*) and is followed by the clause, 'This place is that which is kept by the

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<sup>33</sup> In some cases, such as in Villefranche-sur-Mer, the arsenal and the city were situated at opposite ends of the harbour, making their different spaces and functions overt. In others, such as Marseille, the arsenal was located at the southern part of the port, neighbouring the city, so that only a wall separated the physical and jurisdictional spaces. Bertrand, 'Les cimetières des "esclaves turcs" des arsenaux de Marseille et de Toulon'; Gaëlle Dieulefet and Éric Gilloteau, 'Un ensemble portuaire savoyard en mer méditerranée au XVI<sup>e</sup> siècle: Villefranche', *Archéam*, 22 (Nov. 2016).

pious'.<sup>34</sup> Who exactly were 'the pious', or the beneficiaries of the facilities? Were all Muslims admitted or only certain groups? These questions are fundamental to understanding the ways in which free and bonded Maghrebis organized themselves around or against these institutions. The case of Cartagena suggests that the foundation of such places was related to processes of social differentiation between different Maghrebi groups and predicated upon legal forms the slaves brought with them from the Maghrib. Turning our gaze to these groups would allow us to better understand the links between the formation of Islamic institutions elsewhere in the European Mediterranean and the making of Maghrebi collectives.

## II

### THE MAGHREBI COMMUNITIES OF CARTAGENA

In a broken Spanish translation of a now-lost Arabic document composed by the royal slaves of Cartagena in 1755, when they exchanged their first house for another, the leaders of the king's slaves stated: 'And in the case that *moros del pas* [*sic*] or *libertinos* would try to use [the hospital-mosque], they ought to be thrown out, because [the hospital-mosque] is in the possession of the king's [slaves]'.<sup>35</sup> This contentious statement reveals simultaneously the existence of various Maghrebi groups in eighteenth-century Cartagena and the prickly nature of the relations between them. In addition to the arsenal slaves, who were the king's property and considered to be foreigners and enemies, there were also *Moros de paz* — members of Muslim encampments neighbouring the Spanish colony of Oran who collaborated with the *presidio* — and *libertinos* — Muslim and converted manumitted slaves previously owned by individuals.<sup>36</sup> *Moros de paz* and *libertinos*, whose claims

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<sup>34</sup> Viré, 'Une inscription arabe'

<sup>35</sup> AGS, SMA, Leg. 709, a copy of a document from January or February 1755.

<sup>36</sup> On *moros de paz*, see Beatriz Alonso Acero, *Orán-Mazalquivir, 1589–1639: Una sociedad española en la frontera de Berbería* (Madrid, 2000), 249–78. Francisco de Castellví, the early eighteenth-century Catalan chronicler, estimated their number at a hundred families: Francisco de Castellví, *Narraciones históricas*, ed. Josep M. Mundet i Gifre and José M. Alsina Roca, 4 vols. (Madrid, 1997–2002), ii, *Años 1706–1709*, 176. In 1726, out of a total of 823 exiles from Oran who received a royal pension, sixty-six were Muslims and thirty converts. Only half settled in the Murcia kingdom (Cartagena, Murcia, Lorca). See Luis Fernando Fé Canto, 'Les horizons maghrébins de la monarchie hispanique' (EHESS (The School for Advanced Studies in the Social Sciences), Paris, Ph.D. thesis, 2011), 444–56. A Danish traveller described the *moros de paz* in 1776: 'In Cartagena, there reside *moros de paz*, who fled from Africa to Ceuta and Oran and the other garrisons. Some became Christian,

for residential status (*vecindad*) were recognized over time, were known as *berberiscos*, socially and economically established and yet marginalized legal residents, bound to the municipal jurisdiction. *Moros de paz* arrived in Spain with Spanish exiles from Oran after its Algerian conquest in 1708. *Libertinos* were people in transit, either in the process of saving enough money to be able to return to the Maghrib, or about to convert to Christianity and slowly become *berberiscos*.<sup>37</sup> The hospital-mosque emerges as a definitive feature of the community of the king's slaves. Its existence cannot be reduced to its religious function, as it also had social and political uses — it affirmed the identity of the arsenal slaves and marked a boundary between them and other Maghrebis who resided in Cartagena.

The early modern presence of different groups of Maghrebis in Cartagena goes back at least to the late sixteenth century and it continued to grow until the last third of the eighteenth century.<sup>38</sup> The city's short distance (133 miles) from Oran, Spain's largest post in North Africa and its main conduit for Muslim slaves, meant that the circulation of bonded Muslims between Oran and Cartagena was always intense. Maritime privateering involving Spaniards and Maghrebis offered another source of slaves. The number of royal slaves in Cartagena increased dramatically in 1668, when the city became the main port of Spain's galley squadron.<sup>39</sup> In 1708, the flight of Oran's Christian families, their slaves, and *moros de paz* to Cartagena further increased its Maghrebi population.<sup>40</sup> In 1732, the process continued when Philip V turned Cartagena into one of

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others did not and they are permitted to live freely' (Carl Christoph Plüer, *Reisen durch Spanien* (Leipzig, 1777), 531–2).

<sup>37</sup> According to the Moroccan ambassador, who visited Cartagena in 1768, *libertinos* were free to roam the city, but did not have residential status and were unable to pay the taxes and fees (to the Inquisition, customs, governor, legal magistrates and notaries) without which they could not leave Spain: Ah: mad ibn al-Mahdī al-Ghazzāl, *The Fruits of the Struggle in Diplomacy and War: Moroccan Ambassador al-Ghazzāl and His Diplomatic Retinue in Eighteenth-Century Andalusia*, ed. Travis Landry, trans. Abdulrahman Al-Ruwaishan (Lewisburg, 2017), 166–7.

<sup>38</sup> Aurelia Martín Casares, 'Evolution of the Origin of Slaves Sold in Spain from the Late Middle Ages till the Eighteenth Century', in Simonetta Cavaciocchi (ed.) *Schiavitù e servaggio nell'economia europea, secc. XI–XVIII: Atti della 'Quarantacinquesima Settimana di studi'*, 14–18 aprile 2013 (Florence, 2014), 409–30.

<sup>39</sup> Vicente Montojo Montojo, 'Las Galeras de España en la regencia del reinado de Carlos II (1665–1700)', *Revista de Historia Naval*, cxlii (2018).

<sup>40</sup> Gregorio, Sánchez Doncel, *Presencia de España en Orán, 1509–1792* (Toldeo, 1991).



three maritime departments with their respective arsenals.<sup>41</sup> Finally, in 1748, Spain stopped using its galley fleet, a decision that increased by hundreds the number of slaves in Cartagena's arsenal.<sup>42</sup> As a result, Cartagena became Spain's main Mediterranean port, with more slaves than any other Spanish city, including Barcelona.<sup>43</sup>

Royal slaves, who formed the largest group among these slaves, were common across the Hispanic Empire in the early modern period. The main defining feature of members of this under-researched category of slavery was that their master was the king, and they were bound to royal jurisdiction, rather than to municipal or ecclesiastic, for example. Another characteristic feature was the harsh public labour they carried out, which included mining, paving roads and building docks and fortresses, although, as we see below, the royal slaves of Cartagena were also employed in the same tasks executed by slaves owned by individuals. While the vast majority of royal slaves were males, their ethnic, racial and religious composition varied greatly, with Muslim Maghrebis comprising their bulk in Spain and Christian sub-Saharan Africans in Latin America. As the research of María Elena Díaz as well as for this article suggests, an important feature of this kind of slavery was the opportunity to negotiate 'customs' which could then become entitlements, and which even freed slaves did not have.<sup>44</sup>

In contrast to other groups of Maghrebis in Cartagena, the arsenal slaves formed a well-organized social body. They were exclusively men, mostly Algerian, but also including hundreds of Moroccans and smaller numbers of slaves from Tunis, Tripoli and Istanbul.<sup>45</sup> Between 1750 and 1770, there were always around a

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<sup>41</sup> María Teresa Pérez-Crespo Muñoz, *El arsenal de Cartagena en el siglo XVIII* (Madrid, 2007).

<sup>42</sup> Barrio Gozalo, 'La mano de obra esclava en el arsenal de Cartagena', 83. In addition to the slaves, there were hundreds of convicts, gypsies and free day labourers from the city and its hinterland, *ibid.*, 89.

<sup>43</sup> Eloy Martín Corrales, 'Esclavos norteafricanos en la Cataluña del siglo XVIII', in María Luisa Sánchez León and Gonçal López Nadal (eds.), *Captius i esclaus a l'antiguitat i al món modern: Actes del XIX col·loqui internacional del GIREA, Universitat de les Illes Balears, Palma de Mallorca, 2-5 Octubre 1991* (Naples, 1996).

<sup>44</sup> Díaz, *The Virgin, the King and the Royal Slaves of El Cobre*, 12-14. See also: Evelyn P. Jennings, *Constructing the Spanish Empire in Havana: State Slavery in Defense and Development, 1762-1835* (Baton Rouge, 2020).

<sup>45</sup> For the names of the slaves, see the *Libros de galeras*, Archivo del Arsenal de Cartagena.

thousand slaves in the arsenal, but in the following decades, the number dropped to no more than two or three hundred as a result of slave swaps between Spain, Algiers and Morocco.<sup>46</sup> To put these figures in context, in 1756, the city's general population was 28,467, which meant that the arsenal slaves formed around 3.5 per cent of the city's populace.<sup>47</sup> The population of Cartagena kept growing, hitting fifty thousand in 1799, but by then Spain had signed peace agreements with Algiers and Morocco, and slaves comprised less than 1 per cent of the total population. The community of royal slaves was divided along status lines. Religious scholars received labour exemptions and certain privileges.<sup>48</sup> 'Merchants' also enjoyed labour exemptions and an exceptional freedom of movement and the privilege of trading different goods.<sup>49</sup> *Arráezes* (sing. *arráez*, from the Arabic *ra'īs*) or corsairs, who captained ship crews or even small fleets, served as leaders of the community and were also exempt from manual labour.<sup>50</sup> The sources do not disclose if the arsenal officers nominated them, but even if this were the case, their authority rested on their naval rank and contacts with their home authorities. Nor do we know their number or the term of their office. However, we have the names of a few, signed in

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<sup>46</sup> Between 1721 and 1768, Spain swapped with Algiers and Morocco 2,001 Maghrebi slaves for 1,560 Spanish ones. The majority of the exchanged Maghrebis were enslaved in Cartagena. In addition, an unknown number of slaves were exchanged in deals negotiated and carried out by individuals, who sought to free their enslaved kin. Barrio Gozalo, 'La esclavitud en el Mediterráneo occidental'

<sup>47</sup> The overall percentage of slaves was higher if we also consider private slaves. Their number remains unclear but baptismal records list 116 baptisms of private slaves between 1750 and 1759. If this accounts for only half of the slaves, then during the 1750s there were almost 250 private slaves in the city. See Rafael Torres Sánchez, 'La esclavitud en Cartagena en los siglos XVII y XVIII', *Contrastes: Revista de historia moderna*, 2 (1986). This means that the percentage of slaves was closer to 4.5 per cent if not higher. It was higher than most other cities in Spain. See Alessandro Stella, *Histoire d'esclaves dans la péninsule ibérique* (Paris, 2000), 51–2, and 57. The percentage of Maghrebis was much higher if we count converted *libertinos* and *Moros de paz*.

<sup>48</sup> Al-Ghazzāl, *Fruits of the Struggle in Diplomacy and War*, 52–3, 137 and 168. The presence of Muslim legal scholars imprisoned in Christian polities was not uncommon. On the *kadies* of Malta, see Joshua M. White, *Piracy and Law in the Ottoman Mediterranean* (Stanford, 2018), 60–99.

<sup>49</sup> José Manuel Marchena Giménez, 'La vida y los hombres de las galeras de España (siglos XVI–XVII)', (Universidad Complutense de Madrid Ph.D. thesis, 2010), 211; Manuel Martínez Martínez, 'Los forzados de marina en el siglo VIII: El caso de los gitanos' (Universidad de Almería Ph.D. thesis, 2007), 228 and 471.

<sup>50</sup> But some were imprisoned in isolation and thus were detached from slave communities, AHN, Estado, Leg. 4308, 27 Feb. 1767.

Arabic or transliterated into Spanish on notarial records, as the direct representatives of the arsenal slaves.

The leaders represented the entire community vis-à-vis the marine and municipal authorities as a collective body and legal owners of real estate (the hospital-mosque). We get a glimpse of that in a notarial act from 18 February 1755, when Jache Mohamet Bunyones *sotarraes* (chief mate) and Jamez Fichel declared that they spoke on behalf of the king's slaves and vouched that the latter would accept whatever decision the leaders took on their behalf.<sup>51</sup>

The leaders also collected taxes, kept an archive, established the hospital-mosque, which functioned as a space for the ablution of dead slaves, prayer, and perhaps also as a hospital for the elderly and infirm, and made sure members received proper burials. The slave leaders levied two *cuartos* or eight *maravedis* per month from each slave as taxes that went into a collective savings fund.<sup>52</sup> In 1733 the slaves collectively had enough money to purchase the hospital-mosque for sixteen and a half silver Pieces of Eight, or 4488 *maravedis*. In their archive, the leaders kept the bill of sale, notarial records registering the swap of the house in 1755, and the constitutive charter of their waqf (discussed in section IV).

Over time, and especially after 1732, the arsenal slaves became part of the social fabric of the city. Until the suppression of the galley fleet, pulling a heavy oar was the main task of most slaves, at least in the summertime. From then on, the arsenal slaves spent their days working at all chores executed in the arsenal, from building the wet and dry docks, warehouses and service buildings, to operating the dry docks, to careening ships and building new ones, mending ropes, fixing sails and building masts.<sup>53</sup> The number of hours the slaves laboured was allotted in proportion to how arduous the task was to which they were assigned. Slaves who laboured in the dry docks worked only eight hours a day; others laboured from sunrise to sunset with a couple of hours' break. Simultaneously, just as in other Mediterranean ports, hundreds of them laboured as servants in the homes of the arsenal officers and in the city, as porters, water vendors and produce sellers. A few even spent their nights there, to the chagrin of some of the residents. For this privilege, one of the

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<sup>51</sup> Archivo Regional de Murcia, NOT. Leg. 5755m, 18 Feb. 1755, fos. 152<sup>r</sup>–155<sup>v</sup>.

<sup>52</sup> In 1731, slaves who worked in the most arduous tasks were paid only 16 to 32 *maravedis* per day: Martínez Rizo, *Fechas y Fechos de Cartagena*, 255.

<sup>53</sup> Barrio Gozalo, 'La mano de obra esclava en el arsenal de Cartagena'.

advantages of being subject to the arsenal's jurisdiction, the slaves paid a small sum of money to their officers.<sup>54</sup> Thus, rather than the precise nature of their work, it was the jurisdiction to which they were bound that distinguished royal from private slaves. The most visible sign of the slaves' insertion into the social and economic structures of the city — and recognition of their corporate-like status — was the incorporation of their hospital-mosque into the city's fiscal system, as is attested by the listing of this Islamic institution in the royal cadaster of 1755, along with Christian religious foundations.<sup>55</sup>

As far as the *berberiscos* were concerned, the presence of slaves roaming and working in the city represented a menace to the privilege of their residential status. At least from the turn of the eighteenth century, if not before, most free Maghrebi resided in the old city centre, close to Franciscan and Discalced Mercedarian convents.<sup>56</sup> Their presence at the centre of one of Spain's most important cities was an open secret. Linked to the group's visibility was their status as citizens, which conferred on them the same privileges that Old Christian residents possessed. Citizens of Maghrebi descent enjoyed freedom of movement and the ability to purchase and own property. In Spain, the status of *vecino* (local citizen) was rarely the result of letters of naturalization issued by local or royal authorities. On the contrary, the status was performative: namely, a citizen was someone who acted like a citizen, grazing their herds in the common pasture, paying taxes and buying property, for example. If the claims embedded in such behaviour generated no objections, then the people making the claims were considered citizens.<sup>57</sup> Conversion was not the *sine qua non* for Maghrebi to stay in the city and become citizens, but it provided them with additional protections.

The social and professional assimilation of free Maghrebi ran deep. *Berberiscos* and *libertinos* played important economic roles in provisioning the city with foodstuffs imported from the

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<sup>54</sup> Between 16 Jan. 1710 and 11 Feb. 1734 the king issued six orders prohibiting the labour of galley slaves in the city, AGS, SMA, Leg. 709, 13 Aug. 1739 and 19 Aug. 1739.

<sup>55</sup> Antonio Gil Olcina and Amparo Marzal, *Cartagena 1755: Según las respuestas generales del catastro de Ensenada* (Madrid, 1993), 161.

<sup>56</sup> Archivo Municipal de Cartagena, Padrón del reparto de la sal 1718, 1723–27, 1731 and 1736, and the population censuses from 1715 and 1734.

<sup>57</sup> Herzog, *Defining Nations*.

countryside.<sup>58</sup> In the cadaster of 1755, the city listed the stores it leased to *berberiscos* as one of its sources of income, providing 88 *reales de vellón*.<sup>59</sup> According to Cartagena's salt registers from the 1710s to the 1730s, among the Muslim and convert Maghrebis of Jimero Street, there were a water vendor, bricklayer and blacksmith.<sup>60</sup> The fact that they claimed these professional identities and that the municipal authorities acknowledged their claims implies that converted *berberiscos*, and perhaps Muslim ones, too, could become guild members.<sup>61</sup> In addition, and probably more so than the arsenal slaves, free Maghrebis socialized with Christians in various other settings.<sup>62</sup> In 1740, for example, the prior of the Augustinian monastery submitted a request to the municipality to stop the scandalous nightly meetings of Muslims, soldiers and sailors in the street adjacent to the monastery.<sup>63</sup> The arsenal slaves and the *berberiscos* must have interacted daily, but they were disposed to dislike each other for a number of reasons. While the city permitted an unequal coexistence with the *berberiscos* for decades, the Muslim arsenal slaves, who were bonded foreign war captives, should have held a diametrically opposed status. And yet, despite the clear imbalance between these groups, they competed in the same areas over the same limited set of resources. Both groups shared the market for provisioning the city, importing foodstuffs from the countryside and distributing the goods that arrived at the port throughout the city. Free Maghrebis occupied the majority of these positions by right, even if some Old Christians resented their near monopoly. On the contrary, the arsenal slaves did so by the grace of the arsenal officers

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<sup>58</sup> AHN, Consejos Leg. 6987, exp. 1–5, 1720.

<sup>59</sup> Gil Olcina and Marzal, *Cartagena 1755*, 92.

<sup>60</sup> In 1723 Amete Conexillo worked as a water vendor (*aguador*), and another Amete as a tailor; in 1725, one 'Moor' is described as a bricklayer (*albañil*); in 1727, another 'Moor' is labelled blacksmith: Archivo Municipal de Cartagena, Padrón del reparto de la sal 1718, 1723–27, 1731, and 1736.

<sup>61</sup> *Ibid.* In the late 1730s, guild ordinances, issued or codified for the first time in a century, alarmingly prohibited the membership of slaves, free Muslims, renegades, and Old Christians married to Maghrebi women, thus providing support for the hypothesis that these types of people were indeed joining the guilds: Eduardo Cañabate Navarro, 'Ordenanza de los gremios de Cartagena en el siglo XVIII', *Revista Murgetana*, xviii (1962); and Mercedes Abad Merino, *Ordenanzas de la ciudad de Cartagena (1738)* (Murcia, 2002), 144–6.

<sup>62</sup> AHN, Consejos, Leg. 147, exp. 1.

<sup>63</sup> Archivo Municipal de Cartagena, Libros de actas, 22 Feb. 1740, fo. 241'.

and the royal jurisdiction the latter represented, which bypassed the municipal jurisdiction.

The competition between free Maghrebis and slaves mainly concerned economic interests, but it had strong social implications. The mere participation of the slaves in the local economy put at risk the free Maghrebis' larger project of settling down and living peacefully in Cartagena. Some Old Christians benefited from the slaves' participation in the city's economic life, but others were unhappy with the situation and voiced their discontent.<sup>64</sup> One of the results of this discontent was the promulgation of guild ordinances that lumped together all kinds of Maghrebis.<sup>65</sup> The ordinances reflected a growing anxiety on the part of the city's Old Christians about the blurring of ethno- religious boundaries and showed the willingness of these Old Christians to disregard the differences between groups of Maghrebis. Perhaps, in an effort to restore these distinctions, free Maghrebis were ready to denounce slaves and renegades to the Inquisitorial commissioner of Cartagena.<sup>66</sup>

The competition between free and bonded Maghrebis also played out on another front. Despite the formal hierarchy between them, free Maghrebis were denied the privilege of having communal institutions of the kind the slaves had.<sup>67</sup> An attempt by Muslim *berberiscos* to establish a qur'anic school for children in the first or early second decade of the eighteenth century was quickly suppressed by the bishop.<sup>68</sup> The arsenal slaves, on the other hand, freed from ecclesiastical and municipal jurisdiction, had a hospital, a cemetery and other institutions, as discussed in section IV below. Moreover, as suggested by the quote that opened this section — 'And in the case that *moros del pas* or *libertinos* would try to use [the hospital-mosque], they ought to be thrown out, because [the hospital-mosque] is in the possession of the King's [slaves]' — the arsenal slaves constituted themselves in contradistinction to freed Maghrebis. Yet, this exclusion of freed Maghrebis lends itself to a complementary reading. It might have also represented an attempt

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<sup>64</sup> The depositions submitted as part of the investigation of 1720 expressed a consensus on the matter — the arsenal slaves were dangerous, they engaged in sodomy and theft, and their presence in the city constituted a scandal: AHN, Consejos, Leg. 6987, exp. 1–5.

<sup>65</sup> Cañabate Navarro, 'Ordenanza'; and Abad Merino, *Ordenanzas de la ciudad de Cartagena*, 144–6.

<sup>66</sup> Antonio Peñafiel Ramón, *Amos y esclavos en la Murcia del setecientos* (Murcia, 1992), 116–23.

<sup>67</sup> See Stella, *Histoires d'esclaves dans la péninsule ibérique*, 86.

<sup>68</sup> AHN, Consejos, Leg. 6988, exp. 2.

on the part of the arsenal slaves to shield themselves from Inquisitorial charges, as a number of freed Maghrebis had converted to Christianity and thus fell under the purview of the Inquisitorial jurisdiction. The exclusion also offered freed Maghrebis proof of their own distinction, and thus protected their civic status and potentially prevented locals from confusing them with the arsenal slaves. In a way, Faxia embodies the tension between protection and exclusion. Without the help of this free *berberisca*, who served as a straw man, the slaves would not have been able to purchase the house. And yet, she and her community were excluded from the institution and prohibited from owning its like. The arsenal slaves were permitted to keep it, and that permission marked the different statuses of these groups. While *berberiscos* were free citizens, and a few of them might have been afforded certain professional protections in their capacity as members of the local guilds, they were not incorporated as a group and lacked the privileges that membership in a corporation bestowed. In contrast, the bondmen did not enjoy the benefits of residency, but they were protected by their status as royal slaves, and thus could behave and be perceived as members of a social body. In a corporate world, that meant a lot.

### III

#### THE MAKING OF A SOCIAL BODY

When the municipal councillors and Christian citizens looked at the arsenal slaves and the hospital-mosque, what they saw resembled a social body and a religious foundation, institutions with which they were quite familiar. Indeed, the councillors and others treated the slaves and their hospital-mosque as if, with its foundation, they formed one of the city's corporative bodies.<sup>69</sup> That does not mean that the slaves' collective organization was part of a strategy geared towards obtaining formal municipal recognition as a corporation. Nor does it mean that the municipal magistrates and citizens understood the legal notions of *waqf* and *bayt al-mal* that the slaves were enacting (discussed in section IV), or even knew that they existed.<sup>70</sup> In fact, Cartagenos treated the slaves and their

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<sup>69</sup> On the notion of a corporation in pre-modern European political thought, see Antonio M. Hespanha, *Visperas del Leviatán: Instituciones y poder político. Portugal, siglo XVII* (Madrid, 1989), 233–41.

<sup>70</sup> The ignorance was recent as for centuries Iberian Christians knew what a *waqf* and other Islamic institutions were, and on occasion employed them. On *waqfs* in Al Andalus, see

hospital-mosque as what they were — an associative body and a religious foundation — despite their ignorance regarding these Islamic institutions. The corporate recognition won by the slaves and the treatment of their hospital-mosque as a foundation resulted from their status as arsenal slaves bound to and protected by royal jurisdiction, the institutional homologies between their institutions and the Latin notion of corporation and of religious endowment, and the backing of the Mercedarian convent.

An uneasy yet powerful coalition including Algerian Deys, marine officers, Mercedarian friars, bishops and municipal council members protected the slaves and their collective claims. Algiers, as we have seen, responded with reprisal threats to any attempts to deprive the arsenal slaves of their privileges or shut down the hospital-mosque. In treating the arsenal slaves as a unit, distinct from private slaves, Algiers contributed to the legitimacy of the slaves' collective claims. The arsenal officers, the most powerful representatives of the crown in Cartagena, approved the slaves' collective status when they negotiated matters with the slave leaders, or tacitly approved the communal institutions the slaves established. Faxia's choice of the second notary is indicative of these interactions. Whereas the first notary she met, who notarized her purchase of the house, was one of the city's cohort of notaries, the second, Pedro Antonio de Sola, who ratified the transfer of possession rights from Faxia to the slaves, belonged to the marine administration.<sup>71</sup> Supported by marine officers, the notary gave legal validity to the slaves' possession of real estate. In addition, Pedro Ros Valle, Mercedarian friar at the local convent, who conducted a number of expeditions to rescue captives from Algiers and was in charge of assisting newly redeemed captives who arrived in Cartagena from Algiers, also protected the slaves. Being aware of the reciprocal nature of Mediterranean violence and favours, Ros Valle nominated himself 'guardian' of the arsenal slaves and at least once defended the hospital-mosque after an attack by some of the

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Alejandro García Sanjuán, *Till God Inherits the Earth: Islamic Pious Endowments in Al Andalus (9–15<sup>th</sup> Centuries)* (Leiden, 2007).

<sup>71</sup> 'Testimonio de las diligencias practicadas en Cartagena 29 del mes de enero, 1723', in Melchor García Navarro (ed.), *Redenciones de cautivos en Africa (1723–1725)* (Madrid, 1946), 453.



citizens.<sup>72</sup> Finally, and probably as a result of Mercedarian lobbying, three consecutive bishops supported the existence and functioning of the hospital. The last, Diego de Rojas y Contreras, simultaneously occupied the presidency of the Council of Castile, the most important political organ in Spain. In this regard, his support was both episcopal and royal. When these bishops realized they did not have the power to shut down the hospital-mosque, they accepted its existence, in effect protecting it. These four jurisdictions made it clear to the city's councillors and citizens that there was little they could do about the hospital-mosque or the presence of the arsenal slaves in the city.

These guardians of the arsenal slaves did not prescribe the terms in which the city and others ought to treat the slaves. Towards that end, municipal magistrates and citizens resorted to the institutional repertoires at their disposal. Cartageneros noticed that the arsenal authorities had given the slave leaders some jurisdiction, even if on the minutest scale (taxation, representation and communal institutions). The slaves' jurisdiction manifested itself through failures, too. For example, requests submitted by the slave community in 1765 to receive and sell the clothes of slaves who had died were rejected, but their mere consideration reflected struggles over a fragile and limited yet existing jurisdiction.<sup>73</sup> The people of Cartagena might have thought of the slaves leading these negotiations in terms of officers or elected syndics of the kind featured in corporations.

In addition to taking their cue from the arsenal officers, Cartageneros decided how to treat the slaves on the basis of the slaves' conduct. The citizens and council members recognized, or believed they did, much of the social grammar underpinning the basis of the slaves' actions. For decades they had seen the slaves performing charitable functions, such as preparing the dead for burial, burying them and caring for their old and sick. Cartageneros knew that the slaves contributed money from their meagre salaries to bear the costs of these functions. This kind of behaviour, the constant reenactment of relations among group members through practised commonality (sharing resources and showing love towards

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<sup>72</sup> AHN, Inquisition, Leg. 3733, fo. 301. For more on the role of the Mercedarians and Trinitarians in collaborating with the Algerian authorities on matters related to Muslim and Christian slaves, see Hershenson, *Captive Sea*, 118–39.

<sup>73</sup> These requests are mentioned in the Inquisitorial report: AGS, SMA, Leg. 709.

one another), rather than a formal decree issued by a bishop or civil magistrate, made associative bodies in early modern Europe and colonial Latin America.<sup>74</sup> As a social body whose visible functions were charitable and mostly related to its members' deaths, the slave collective was familiar to Cartagena. <sup>75</sup> It resembled their own confraternities, not only because a number of free workers at the port and in the shipyards established their own confraternities, but also because Christian slave confraternities were common in Spain.<sup>76</sup> This is why friar Pedro Ross and the city notaries described the hospital-mosque as a charitable endowment (*casa de caridad*). One of the term's contemporary meanings was specifically the kind of charity exercised by confraternities.<sup>77</sup> For this reason, too, the city listed the hospital-mosque along with other religious foundations in the report it was requested to fill out for the royal cadaster of 1755. There were also differences. In Spain, religious foundations were almost always formed by families, whereas the slaves' endowment was made by a slave community or an artificial kinship group.<sup>78</sup>

The slaves' jurisdiction was imposed on the municipal council by the marine officials, and yet the council was instrumental in grounding and expanding the corporate dimension of the slaves' association. It accepted the claims made by Algiers, the arsenal officers and Pedro Ross Valle, but gave them further validity by recognizing the slaves' leaders as representatives of the arsenal slaves and negotiating with them on matters related to the hospital-mosque. In these

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<sup>74</sup> Angelo Torre, *Production of Locality in the Early Modern and Modern Age: Places* (Abingdon and New York, 2020), 52–5. On how common fraternities unauthorized by the civil or episcopal authorities were in the early modern period, see David Carbajal López, *Cuerpos profanos o fondos sagrados: La reforma de cofradías en Nueva España y Sevilla durante el siglo de las Luces* (Jalisco, 2017).

<sup>75</sup> Maureen Flynn described early modern Spanish confraternities as 'carefully constructed death societies': Maureen Flynn, *Sacred Charity: Confraternities and Social Welfare in Spain, 1400–1700* (Basingstoke and London, 1989), 13.

<sup>76</sup> On the rise in the number of local fraternities following the arrival of the galleys and building of the arsenal, see Federico Maestre-de San Juan Pelegrín, 'Las cofradías de Cartagena fundadas en sedes regidas por el clero regular durante la edad moderna', *Murgetana*, cxxxiii (2015). On slaves' confraternities in Spain, see Mira Caballos, 'Cofradías étnicas en la España Moderna'.

<sup>77</sup> Real academia española (1726), 'Charidad', in *Diccionario de la lengua española*.

<sup>78</sup> In Europe, religious foundations were created by families and in turn created families. As Clavero has shown, the family was always an artificial kinship structure formed by procedures of transmission of property. Bartolomé Clavero, *Mayorazgo: propiedad feudal en Castilla, 1369–1836*, 2nd edn (Madrid, 1989).

instances, the municipal council treated the arsenal slaves as a social body with a legal persona that could enter into contracts, own, manage, barter, sell property and pay taxes. It furthered the corporate nature of the arsenal slaves and the legal status of the hospital-mosque when it incorporated the latter in the city's fiscal system.<sup>79</sup> Without any learned understanding of the institutions embedded in each group's claims and conduct, the slaves and Cartageneros developed a pragmatic *modus operandi* based on lay interpretations of these institutional forms.

#### IV

##### ISLAMIC INSTITUTIONS AND COMMUNITY IN EIGHTEENTH-CENTURY CARTAGENA

We suggest that the slaves' commitment to protecting the hospital-mosque was due to its status as a *waqf* or pious endowment. In other words, to understand the slaves' conduct and decisions, we need to turn to the Islamic legal categories the slaves imported to Cartagena from the Maghrib. The debates among Cartageneros, Inquisitors, and politicians from Madrid dealt specifically with the nature of the hospital-mosque — was it a hospital or a mosque? — but were limited to its sensual aspects: the visual and aural impressions it generated, the muezzin's voice occupying the public space and the sounds generated by the congregation.<sup>80</sup> These overt signs left invisible to the Christian's field of vision other Muslim institutions: not only a *waqf* but also a public treasury or *bayt al-mal* (literally, house of fortune or money).

The *waqf*, or *ḥubūs* as it is called in North Africa, was the most popular, legal and flexible way of extending alms to the poor in the Muslim world. The term, referring to both a charitable trust and the act of its foundation, was a legal formulation that served a wide

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<sup>79</sup> Gil Olcina and Marzal, *Cartagena 1755*, 161.

<sup>80</sup> Debates over the sensory manifestations of mosques under Christian rule and churches under Islamic rule have a long history in the Iberian Peninsula: Olivia Remie Constable, 'Regulating Religious Noise: The Council of Vienne, the Mosque Call and Muslim Pilgrimage in the Late Medieval Mediterranean World', *Medieval Encounters*, xvi, 1 (2010); and John V. Tolan, 'Affreux vacarme: sons de cloches et voix de muezzins dans la polémique interconfessionnelle en péninsule ibérique', in Thomas Deswarte and Philippe Sénac (eds.), *Guerre, pouvoirs et idéologies dans l'Espagne chrétienne aux alentours de l'an mil: actes du colloque international organisé par le Centre d'études supérieures de civilisation médiévale Poitiers-Angoulême (26, 27 et 28 septembre 2002)* (Turnhout, 2005).

range of functions and was regulated by the sharia.<sup>81</sup> The foundation of a waqf in a territory hostile to Islam by a group of slaves was exceptional and raised numerous theological, legal and practical obstacles, but given the institution's popularity at the time, the slaves' decision to employ it for their communal goals is not surprising. Understanding how the slaves used the institution of the waqf for their purposes, how the leadership came to fulfil functions that in Algiers were executed by the institution of *bayt al-mal* (discussed at the end of this section) and how the roles of these institutions as well as the hospital-mosque and cemetery overlapped, offers us an extremely rare window into the self-perception of a Muslim slave community and the strategies it employed to conduct itself.

The claim that the arsenal slaves established a waqf and enacted a few of the functions of *bayt al-mal* raises evidentiary and interpretative challenges. The document that gets us closest to the slaves' direct voice (a Spanish translation of an Arabic document) mentions the 'house' and its patron, a medieval eponymous founder of a Sufi order (see below at n. 92), but does not explicitly mention the terms waqf or *bayt al-mal*. However, considering that the slaves had no reason to share with the Spaniards the legal apparatus upon which the establishment and operation of their institutions was predicated, and taking into account the general paucity of direct subaltern voices in the archives, this is hardly surprising. Thus, despite the archival silence, it is clear that the slaves were familiar with these legal concepts. Waqfs expanded rapidly across the eighteenth century Ottoman empire.<sup>82</sup> In Algiers alone there were thousands of sequestered waqf properties in the first half of the nineteenth century.<sup>83</sup> Moreover, in eighteenth-century Algiers, this form of property transmission was popular among corsairs (sailors, janissaries and ship captains), groups that formed the majority of the royal slaves.<sup>84</sup> Furthermore, the

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<sup>81</sup> Pascale Ghazaleh (ed.), *Held in Trust: Waqf in the Islamic World* (Cairo, 2011), editor's intro, 'Pious Foundations: From Here to Eternity?'

<sup>82</sup> David S. Powers, 'Orientalism, Colonialism, and Legal History: The Attack on Muslim Family Endowments in Algeria and India', *Comparative Studies in Society and History*, xxxi, 3 (1989), 537.

<sup>83</sup> Tal Shuval, 'La pratique de la m'awada (échange de biens *habbs* contre propriété privée) à Alger au XVIII<sup>e</sup> siècle', *Revue du Monde Musulman et de la Méditerranée*, lxxix–lxxx (1996).

<sup>84</sup> Fatiha Loualich, 'In the Regency of Algiers: The Human Side of the Algerine Corso', in Maria Fusaro, Colin Heywood and Mohamed-Salah Omri (eds.), *Trade and Cultural*

Moroccan ambassador, who visited Cartagena in 1768, mentioned that among the king's slaves there were students and scholars of religion, perhaps kadis, muftis or both, who could validate the foundation charter and related documents.<sup>85</sup> The ubiquity of these institutions in the early modern Maghrib and the familiarity of the slaves with them meant that they formed part of the legal repertoire on which the slaves could draw for communal purposes. We contend that the decisions the slaves took on matters related to the hospital-mosque and the communal responsibilities the slave leaders assumed are consistent with the institutions of the waqf and *bayt al-mal*, and thus these legal forms offer the best interpretative framework to explain the slaves' conduct. This framework sheds light on the Islamic legal notions that the slaves had appropriated and protected, and how this shared legal vocabulary served them in the process of communal imagining and the making of a social body. If we read the sources with an eye towards these institutions, the slaves' claims and actions over nearly four decades emerge as consistent with the set of principles fundamental to the waqf institution and with the Algerian *bayt al-mal*, but adapted to the extraordinary circumstances of slavery in Christian Spain. Three key moments in particular — when the slaves purchased the house in 1733/4, negotiated its swap in 1755, and insisted on receiving a new structure rather than monetary compensation after its destruction in 1770 — prove that the slaves' actions and claims were always directed towards securing the main principles of a waqf endowment — inalienability and perpetuity.

One way of thinking about a waqf is as a relationship between a property owner, a property and a set of beneficiaries. The reasons for establishing this relationship included the desire to secure property from Islamic inheritance law and earmarking revenues for specific people or charitable purposes. The foundation of a waqf required a donor or a founder who was a free adult of sound mind and capable of handling financial affairs. The endowed goods had to be such that could be legally trafficked and capable of becoming objects of a legal contract. The founder had to have the legal right to dispose of the endowed objects. The act of foundation marked the transfer of ownership to the beneficiaries, who could be a

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*Exchange in the Early Modern Mediterranean: Braudel's Maritime Legacy* (London and New York, 2010)

<sup>85</sup> Al-Ghazzāl, *Fruits of the Struggle in Diplomacy and War*, 52–3, 137 and 168.

category of people (for example, 'the poor') or institutions (for example, a hospital or mosque). In the case of the latter, the institution might have received a source of regular income from the donor, but the beneficiaries were considered the users of the institution. In order to attain security in perpetuity, the essential feature of the waqf, the beneficiaries, were defined as a class — for example, the poor or the students of a specific madrassa — whose existence extended beyond individual members.

The Cartagena waqf violated a number of these rules and was exceptional in that the slaves occupied all three positions — donors, administrators and recipients — that under regular circumstances were held by different individuals or groups. One obvious problem was that the slaves were not free and had limited economic agency. This difficulty was not merely juridical and theological but also practical. As bonded individuals, the slaves did not own real estate and did not have the legal capacity to purchase property, not to mention the means of attaining the revenue necessary to sustain it in perpetuity once the endowment was established.<sup>86</sup> The slave leaders overcame this last hurdle by collecting taxes from all the slaves and establishing a collective savings fund, which served as a consistently productive source of revenue.<sup>87</sup> The next challenge was obtaining real estate that could serve their purpose. To achieve that goal, they employed Faxia as their front person — a legal citizen of Cartagena who thus enjoyed the legal capacity to sign a valid contract, but was also a Muslim who could identify with the project.<sup>88</sup> In theory, the slaves should have lost ownership over the house the moment the property was endowed. Since, however, in effect they simultaneously occupied the positions of donors and beneficiaries, they immediately

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<sup>86</sup> Slaves did not have the legal power to sign contracts and if they did their signature made the contract extremely fragile, one which courts were bound to discount, see Giacomo Todeschini, *Au pays des sans-nom: gens de mauvaise vie, personnes suspectes ou ordinaires du Moyen-Âge à l'époque moderne*, trans. Nathalie Gailius (Lagrasse, Aude, 2015).

<sup>87</sup> The use of cash to support different kinds of waqfs was common and yet debated in the early modern Ottoman world. In the mid sixteenth century, the grand mufti of the Ottoman empire authored a fatwa on cash endowments supporting their legality. See Omer Awass, 'Fatwa, Discursivity, and the Art of Ethical Embedding', *Journal of the American Academy of Religion*, (2019), lxxvii, 3, 776–8.

<sup>88</sup> On women and waqfs in the early modern Ottoman empire, see Engin Isin and Ebru Üstündağ, 'Wills, Deeds, Acts: Women's Civic Gift-Giving in Ottoman Istanbul', *Gender, Place and Culture*, xv, 5 (2008); and Leslie Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (Berkeley, Calif., 2003), 209–50.

regained possession (but not the right to alienate it) in their latter capacity. Finally, to complement this unusual waqf, some of the slaves were also its administrators in charge of keeping it operative and making sure that any exchange of the property followed the rules in order to sustain the fiction of perpetuity.

Let us take a close look at our three key moments. The importance of the perpetuity of the group of beneficiaries and inalienability of the property becomes clear when we look again at the words Faxia dictated to the marine notary she met in Cartagena on 5 April 1734. She first clarifies that she purchased the house with the slaves' collective savings, for them, and following their order. In other words, despite being formally the legal subject of the notarial act, she points to the slaves as its true, collective agent. She then turns to define that collectivity, declaring that the house was to become a charity hospital 'for the Moorish slaves of the galleys that at present are [enslaved] or that would be [enslaved] in the future'.<sup>89</sup> Faxia stressed that the beneficiaries are the members of a defined social class and not a group of individuals, a class that includes present members as well as future ones.<sup>90</sup> Her words, dictated on behalf of the slaves, were loaded with the performative power of the act of creation of waqfs and had two interrelated effects. First, her action participated in the ongoing imagining of all royal slaves as members of a single class. By collapsing the present and future into a single temporal zone the beneficiaries of the hospital- mosque became related to each other in sort of a fraternal dynamic. This identity was not an imposed one, even if it overlapped with and was partly dependent upon the identity that the community shared in its capacity as the king's slaves. Second, the implications of treating the slaves as members of a class were such that as long as the institution of slavery existed the hospital-mosque would have beneficiaries and thus maintain its perpetual nature. The temporality embedded in Faxia's words also suggests that both she and the slaves shared the belief that the condition of slavery and the existence of displaced Muslim slave communities would be a perpetual aspect of life in the region. The peace agreement that

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<sup>89</sup> This point was important and Faxia repeated it a few lines below declaring that the house was to become a shelter and charity hospital for 'the enslaved Moors of the galleys that [currently] reside in this port and those who would [be enslaved] in the future' (*ibid.*).

<sup>90</sup> Gabriel Baer, 'The Waqf as a Prop for the Social System (Sixteenth– Twentieth Centuries)', *Islamic Law and Society*, iv, 3 (1997)

Spain would sign a few decades later with Algiers and Morocco, which freed all slaves from both sides, was unthinkable at the time. In any case, her statement formed the first corporate articulation and corresponding marine recognition of the slaves as a collective that had the power to purchase and own real estate. The institution remained in the collective possession of the king's slaves until 1786, and in the interactions between the slaves and the municipal and marine authorities during this period 'the Moorish slaves of his majesty' were treated as its legal owners, with the power to alienate or exchange it.

The effort invested in securing the inalienability and perpetuity of the endowment manifested itself again in January 1755. After enjoying some twenty years of relative peace, members of the municipal council approached the slaves' leaders and asked them to barter their house for another on the outskirts of the city. The councillors couched their desire in the form of a request rather than an order because the slaves legally owned the property and were protected by the marine jurisdiction, and thus were protected by the arsenal officers. Jache Mohamet Bunyones and Jamez Fichel, the representatives of the community at the time, acceded. Their consent suggests that the marine administration supported the municipal agenda. For waqf administrators, the dilemma such a request raised concerned the house's status as a waqf property, and thus inalienable and permanently removed from the realm of circulating goods. Over the centuries, in order to overcome the problems created by the proliferation of endowments in Muslim cities, jurists devised protocols for the exchange of waqf assets in a way that did not damage the endowments economically and thus maintained their perpetual nature.<sup>91</sup> The fact that the municipality donated a plot at the Cavezo de la Cruz by Angel Gate (adjacent to, but within the old city walls) on which it built a new structure, which the notary made sure to note was 'of higher value' than the old one, must have made acquiescence easier for the slaves.<sup>92</sup>

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<sup>91</sup> Such exchanges were possible, but they were deemed threatening to the founder and beneficiaries' interests: Hoexter, *Endowments, Rulers, and Community*, 92–143. Only extreme circumstances could justify such an exchange, which had to be approved by a kadi and ideally supported by a fatwa, *ibid*

<sup>92</sup> The new structure was around 1,600 square feet (56 palms times a longer distance with a little patio). It is likely that the slaves preferred the new location since it was closer to their cemetery and relatively isolated. Archivo Regional de Murcia, NOT, Leg. 5755, fos. 152<sup>v</sup>–155<sup>v</sup> and copies in AGS, SMA, Leg. 709.



As part of the negotiations over the swap, a now-lost Arabic record that attested to the inalienability of the waqf, the obligations of its administrators, the identity of its beneficiaries and its dedicated patron was translated from Arabic to Spanish. The notarial adaptation of the translation restated the inalienable nature of the foundation and the identity of its beneficiaries, but it omitted the mention of a Sufi patron. The translation, made by galley slaves Tamet and Brafamen, opens with the following statement: 'This is the beginning of the house, and the patron of the house, Cide Abdelcader Chilali, does not forget nor abandon it, and has fear of returning to the world should too much money be spent on the new house [by its administrators]'. Sīdī 'Abd al-Qādir al-Jilani (1078–1166), the figure this somewhat enigmatic statement evokes, was a Sufi mystic, jurist and theologian, as well as the eponymous founder of the Qādiriya Sufi order, an important order with numerous offshoots that were popular across the Maghrib.<sup>93</sup> The dedication of the hospital-mosque to the order's founder suggests that members of the Qādiriya were prominent among the slaves. It also reveals a layer of cross-Maghrebi identity shared by the slaves alongside their political belonging. This layer was embodied in specific forms of prayer and ritual that distinguished one order from another, and in a spiritual genealogy that linked members to the prophet through their master.

The text proceeds by highlighting inalienability and defining the identity of the beneficiaries: 'And the said house cannot be sold or pawned and in the case that *moros del pas* [*sic*] or *libertinos* would try to use [the hospital-mosque], they ought to be thrown out, because [the hospital-mosque] is in the possession of the King's [slaves]'.<sup>94</sup> The first clause insists on the foundation's inalienable nature, the second emphasizes the doubly delimited identity of the beneficiaries of the endowment. The fact that the arsenal slaves use the waqf for community-making in contradistinction to the free

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<sup>93</sup> Jamil M. Abun-Nasr, *Muslim Communities of Grace: The Sufi Brotherhoods in Islamic Religious Life* (New York, 2007), 86–96; D. S. Margoliouth, 'Kadiriyya', *Encyclopaedia of Islam Second Edition* (Leiden, 2006– ); and Sossie Andezian, 'L'Algérie, le Maroc, la Tunisie', in Alexandre Popović and Gilles Veinstein (eds.), *Les voies d'Allah: Les ordres mystiques dans l'Islam des origines à aujourd'hui* (Paris, 1996), 389–408.

<sup>94</sup> AGS, SMA, Leg. 709.

Maghrebis strengthens the sense of their fraternity, a relational type that homogenizes, equalizes and excludes.<sup>95</sup>

The final instance in which the slaves' actions were dictated by the legal framework of the waqf occurred in 1770, when under Inquisitorial pressure the crown decided to demolish the hospital-mosque and provide the slaves with an alternative space within the arsenal. The slaves were offered cash for their hospital-mosque, but manifested their organizational power by refusing to nominate a representative who would accept the money, and by demanding instead an alternative structure. The refusal or inaction again reflects the waqf's principles of inalienability. By accepting the funds, the transaction might be signified as a sale, and the leaders would betray their role as administrators of their community waqf, not to mention the trust of their beneficiaries. Initially the authorities refused the slaves' demand but recurrent Algerian threats convinced the king to consent to it. In 1774, the slaves received a new house, this time windowless — resembling Islamic establishments in Mediterranean port cities — in the neighbourhood of Santa Lucia, outside the old city walls, closer to their cemetery.

Three aspects of the slaves' behaviour and claims between 1734 and 1774 suggest that they were establishing a waqf. The marking of the arsenal slaves as the exclusive beneficiaries of the endowment, and the lumping together of all present and future arsenal slaves into a single category defined in relation to the hospital-mosque and in contradistinction to other Maghrebis in Cartagena had the double effect of constituting the royal slaves as a collective and establishing the perpetual nature of the endowment. The prohibition against selling or pawning the structure, the stress on the higher value of the exchanged property, and the refusal to accept monetary compensation (significantly higher than their initial investment) for the structure that the crown demolished embody the principle of the inalienability of the endowment. Cartageneros were familiar with the enactment of the principles of perpetuity and inalienability.<sup>96</sup>

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<sup>95</sup> Naor Ben-Yehoyada, 'Transnational Political Cosmology: A Central Mediterranean Example', *Comparative Studies in Society and History*, lvi, 4 (2014).

<sup>96</sup> Jean-Pierre Dedieu, 'Waqf, Foundations and Similar Institutions Around the World (Eleventh–Twentieth Century)', in Tōru Miura (ed.), *Comparative Study of the Waqf from the East: Dynamism or Norms and Practices in Religious and Familial Donations* (Tokyo, 2018).

The perpetual nature of the waqf's beneficiaries was also an essential feature of Latin corporations, and like waqf properties, Latin *mortmain* institutions were also inalienable.<sup>97</sup> There were also significant differences. In Spain, religious foundations were endowed with a legal persona — absent in Islamic legal understanding of the waqf — and became autonomous legal objects. However, the resemblance was near enough so that in response to the slaves' conduct as a social body, they were treated as one.<sup>98</sup>

The leaders of the slave community also executed communal roles, which in Maghrebi Ottoman provinces fell under the purview of the institution of *bayt al-mal* or public treasury.<sup>99</sup> Historically the treasury of the Muslim state in charge of collecting and distributing state revenues, under the Ottomans the role of this state institution was mostly related to vacant properties and heirless estates. *Bayt al-mal's* judges (*qadis*) recognized heirs, repatriated assets of people who died far away, and protected heirless estates, but they were also responsible for maintaining cemeteries, purchasing funeral shrouds and burying the poor. The royal slaves, the majority of whom were corsairs and seafarers, at high risk of dying away from home, were particularly familiar with the institution. Indeed, the documented use that members of this mobile class made of waqfs and wills was meant to control the transmission of their belonging and avoid its management by the officials of the *bayt al-mal*. Regardless of their efforts, inventories of seafarers who died on the high seas are over-represented in the *bayt al-mal* records.<sup>100</sup> Recently, Isabelle Grangaud has shown how, rather than a predatory state instrument for the seizure of assets from the heirless deceased, the Algerian *bayt al-mal* served as a guardian for absent individuals defending their rights against rival claimants: 'The institution of the *bayt al-mal* therefore acted, in the name of the state, as an heir in the

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<sup>97</sup> Dedieu, 'Christian Religious Foundations in Western Europe: Between Spirituality and Worldliness', in Miura (ed.), *Comparative Study of the Waqf from the East*, 81–3.

<sup>98</sup> For an illuminating study of similar questions in the context of the early modern Jewish community of Rome and its synagogue, see Kenneth R. Stow, 'Corporate Double Talk: Kehillatt Kodesh and Universitas in the Roman Jewish Sixteenth Century Environment', *Journal of Jewish Thought and Philosophy*, viii, 2 (1999).

<sup>99</sup> For an overview of the institution, see Coulson, N. J. *et al.*, 'Bayt al-Māl', in P. Bearman *et al.* (eds.), *Encyclopaedia of Islam, Second Edition*, online at <[http://dx.doi.org/10.1163/1573-3912\\_islam\\_COM\\_0109](http://dx.doi.org/10.1163/1573-3912_islam_COM_0109)> (accessed 20 December 2021).

<sup>100</sup> Loualich, 'In the Regency of Algiers'.

absence of legally recognized heirs the institution also acted as an heir in a very concrete context, namely burying the dead'.<sup>101</sup>

The leaders and the religious scholars among the slaves carried out, to the degree possible, the functions of the *bayt al-mal*. They were in charge of providing burial shrouds and ensuring the proper burial of dead slaves. They also protected the property of slaves who died in Cartagena and who were in effect heirless, even if they had living relatives in North Africa. We get a glimpse of this set of obligations in two petitions which the slaves submitted to Marine Intendant General Juan Domingo de Medina, which evoke almost all the features of *bayt al-mal*. The slaves requested permission to sell the clothes of slaves (they were disbursed annually — shoes, socks, buttons, shirts, underwear, a cape and a red hat) who died, rather than return them to the arsenal quartermaster.<sup>102</sup> The petitioners explained that the money earned by the sale of the clothing would help defray expenses for the slaves' burials, which included funerary shrouds.<sup>103</sup> In petitioning to sell the clothing, the slaves claimed the meagre property of their deceased fellows and implied that the right to inherit was theirs rather than that of the arsenal officials, while also claiming that the clothing was an element of a broader set of obligations related to death and succession. By assuming these duties, the slaves were enacting functions that in the Ottoman Maghrib fell under the purview of the state.<sup>104</sup> That move failed, as the marine intendant general rejected the request, but the failure is important as it points out the limits of the slaves' collective efforts, and the constraints imposed on them by the municipal council and the marine officers, local and royal jurisdictions.

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<sup>101</sup> The following analysis is based on Isabelle Grangaud's discussion in Simona Cerutti and Isabelle Grangaud, 'Sources and Contextualizations: Comparing Eighteenth-Century North African and Western European Institutions', *Comparative Studies in Society and History*, lix, 1 (2017), 23.

<sup>102</sup> Martínez Martínez, *Los forzados de marina*, 83–4.

<sup>103</sup> AGS, SMA, Leg. 709. On the importance of shrouds in the Islamic economy of salvation, see Leor Halevi, *Muhammad's Grave: Death Rites and the Making of Islamic Society* (New York, 2007), 84–113.

<sup>104</sup> On the administration of heirless goods in early modern Spain, see Thomas Glesener, 'The Cruzada and the Administration of Vacant Properties in Spain (15<sup>th</sup>–18<sup>th</sup> centuries)'; and Alessandro Buono, 'The King Heir: Claiming Vacant Estate Succession in Europe and in the Spanish World (13<sup>th</sup>–18<sup>th</sup> Centuries)', both in *Atelier du Centre de Recherches Historiques*, xxii (2020).

The waqf and the *bayt al-mal* established an alternative relationship between property, belonging and succession, and in this way compensated for the family the slaves had lost at the moment of their captivity. If the waqf offered the slaves the means to imagine themselves as members of a horizontal community, a virtual kinship group, by constructing a lineage at the moment of claiming the right to inherit the belongings of the dead, the *bayt al-mal* reintroduced a dimension of time into the collective that the slaves formed.<sup>105</sup> Had the slaves' attempt to appoint themselves as the legal heirs of otherwise heirless deceased succeeded, they could have constructed lineage, and expanded their jurisdiction at the expense of the arsenal officers. The notion of the 'genealogical isolate' is often thought of as one of the main features of slavery, but the case of Cartagena once again complicates this stance.<sup>106</sup> Not only were the slaves immured with others with whom they shared a language, origin and religion, but also by re-enacting Islamic institutions they created a substitute family for the ones they had lost. Finally, an important consequence of the slaves' use of Islamic hybrid legal forms as a framework to establish themselves as a collective and regulate aspects of their communal life was the establishment of a fragile Maghrebi and Islamic jurisdiction.

## V

### CONCLUSION

The 1769 Inquisitorial report led to the demolition of the hospital-mosque, but the destruction did not permit the Inquisitors to revel in their victory. The arsenal authorities recommended that the demolition should not be framed as a sign of Christian triumph, but rather as a response to security concerns that required the extension of the city walls. To make the cover story more credible, a number of neighbouring houses were also knocked down, the plan to extend the walls was carried out, and the slaves were pressured to accept monetary compensation, which they refused. In 1774, under recurring Algerian threats, the marine secretary requested that the

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<sup>105</sup> On the waqfs as a means for creating heirs and alternatives to legal families that donors lacked, see Pascale Ghazaleh, 'Heirs and Debtors: Blood Relatives, Qur'anic Heirs, and Business Associates in Cairo, 1800–50', in Nelly Hanna and Raouf Abbas (eds.), *Society and Economy in Egypt and the Eastern Mediterranean 1600–1900, Essays in Honor of André Raymond* (Syracuse, 2005).

<sup>106</sup> Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, Mass., 1982), 5.

Inquisition representatives and king consent to rebuilding the hospital. He was granted permission, and built an alternative structure for the slaves.

The case of the royal slaves of Cartagena sheds an exceptional light on how bonded Muslims used Islamic and Maghrebi concepts and institutions to make sense of their communal existence under Christian rule. In enacting these Islamic institutional hybrids — recognized by locals as Latin institutional hybrids — the slaves carved out a Maghrebi-Islamic jurisdictional space in one of Spain's most important port cities. It had territorial articulations: in their barracks at the arsenal the slaves enjoyed some autonomy. When working in the city, their officers protected them. Perhaps most astoundingly, the hospital-mosque, a *mortmain* institution, operated in the heart of the city as an extraterritorial jurisdiction controlled by Maghrebi slaves, and respected as such by the municipal authorities, which left it in peace. However, the waqf and *bayt al-mal* were more than mere artefacts of Islamic culture, as they offer us a glimpse into the process of creating a jurisdiction, against the letter of the law and from the bottom-up. Rather than enacting a Latin-style corporation, the slaves used that institutional form as a format into which they fitted their waqf and hospital-mosque. As a result, the imperial and local legal landscape came to include a collective whose members were considered enemies and formally excluded from the body politic in their capacity as bondmen.

The capacity of the royal slaves for collective action adds to other studies that nuance the notion of a clear-cut dichotomy between free and bonded people.<sup>107</sup> Despite, or rather because of their servile status and the fact that they were bound to royal jurisdiction rather than a municipal or ecclesiastic one, they won collective recognition and privileges which free Maghrebis were denied. This case thus suggests that corporate status could become a source of entitlements competing with personal freedom embodied in local citizenship — at least as far as it concerned citizens of Maghrebi descent, regardless of whether they or their forebears had converted to Christianity. Recently, María Elena Díaz has argued that the status of royal slaves potentially entailed privileges and

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<sup>107</sup> For studies that undermine this dichotomy in the Ottoman and the Moroccan contexts, see Ehud R. Toledano, *As If Silent and Absent: Bonds of Enslavement in the Islamic Middle East*, (New Haven, 2007); and Mohammed Ennaji, *Serving the Master: Slavery and Society in Nineteenth-Century Morocco*, trans. Seth Graebner (Basingstoke, 1999).

entitlements, a hypothesis further supported by the case of Cartagena. However, it is important to stress that while the status itself was a necessary condition for obtaining these privileges, it was an insufficient one. For this reason, even the achievements of an organized community such as that of the arsenal slaves remained extremely fragile. Moreover, while it was the friction between the municipal and marine jurisdictions that enabled the slaves' project, the very same jurisdictions constantly encroached on the liberties that the slaves claimed, and over time were successful in constraining them. The transformations of the hospital-mosque demonstrate the point. Every move of the house that was imposed on the slaves increased its spatial marginalization, a fact expressed by the stripping of windows overlooking the street from the third and last incarnation.

If the friction between the royal and municipal jurisdictions was crucial to the slaves' success, failure required the intervention of a third jurisdiction, that of the Inquisition. The Inquisitors of the tribunal of Murcia manipulated the corporate status that the slaves had gained and the relative extraterritoriality of their endowment and skilfully used them against the slaves. The Inquisitors' report offered two arguments in favour of demolishing the mosque. First, the Inquisitors expressed their fear that the public nature of the hospital-mosque would be taken by Spanish subjects and foreign polities as a sign of royal tolerance towards Islam. Their second and equally powerful argument was false: that the hospital-mosque served as an asylum for fugitive slaves, suggesting that the Muslim slaves were agents of hostile North African polities that occupied a jurisdiction significantly broader than that of a confraternity. While this was untrue, it was not so far-fetched. The slaves never provided asylum for fugitive slaves, but in theory could have done so, having established a jurisdiction recognized by all other jurisdictional spaces in the city.

As mentioned, the victory by the Inquisition and the crown was pyrrhic because the demolition was framed as a response to pragmatic needs rather than specifically designed to counter a spiritual threat, and the structure was rebuilt a few years later. Yet, on another level, the Inquisition and crown were extremely successful in effacing this episode and the rich diversity of Maghrebi existence from the historical memory of Spain and the Mediterranean. The production of this historical amnesia was

predicated upon having the last word on the matter, which, in this case, was that of the king. The royal order that granted the slaves another structure conditioned the concession so that the word 'mosque' would be eliminated from the local lexicon: 'And so that the name mosque will not prevail — a name which the Moors unavoidably might use among themselves to refer to the house — special care should be taken not to give [the house] that designation in any oral or written order or in any document in which there might be a mention of [the house]'.<sup>108</sup>

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<sup>108</sup> AGS, SMA, Leg. 709, 23 Apr. 1774.