



## Ordered Relationships

### The Regulation of Jewish-Christian Marriages and Children in Ibn Qayyim al-Jawziyya's Legal Works

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**ABSTRACT** Ibn Qayyim al-Jawziyya (d. 751/1350) was a well-known theologian and jurist who lived in Mamluk Damascus. He wrote on a variety of topics and his writing has retained, or acquired, relevance for many Muslim readers today. Amongst his works is a legal compendium dedicated to Jews and Christians living under Islamic rule, entitled *Aḥkām ahl al-dhimma*. Although most of the rulings in *Aḥkām ahl al-dhimma* focus on relations between non-Muslims and Muslims, or Muslim society, Ibn al-Qayyim also discusses the question of Christian-Jewish marriage and the identity of a child born to a Christian-Jewish couple. This article analyses his teaching on both questions and relates it to the wider intellectual and historical-social context. It argues that Ibn al-Qayyim uses the question of inter-religious marriage and children's religious identity to develop ideas about the relationship between Judaism, Christianity and Islam and to link these to the political status of Jews and Christians in his own historical and social context.

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**KEYWORDS** Ibn al-Qayyim, Jewish-Christian marriage, Ḥanbalī school, Geniza, non-Muslim children, *Aḥkām ahl al-dhimma*, ghiyār

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## Introduction

Ibn Qayyim al-Jawziyya (d. 751/1350), also referred to as Ibn al-Qayyim,<sup>1</sup> has long been known for his close relationship to the more famous Ibn Taymiyya (d. 728/1328). However, in recent decades he has also received attention as an author in his own right (Bosanquet 2021). Critical editions of his works, popular reprints and academic studies reflect his rising significance in contemporary Islamic thought and in research on this subject (Brinkmann 2015; Mustafa 2013; Ovadia 2018). Whereas he was previously seen as echoing the teaching

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1 In its long form, his name can be translated as son (*ibn*) of the custodian of the Jawziyya madrasa (*qayyim al-Jawziyya*). The short form of Ibn al-Qayyim means the son of the custodian. This is the more common way of referring to him. On his name, see Abū Zayd (1991, 31).

of Ibn Taymiyya, recent studies have focused on his own, often highly original contribution to the Islamic intellectual tradition and the way that his thought influenced the reception of Ibn Taymiyya (Bori and Holtzman 2010; Krawietz, Tamer, and Kokoschka 2013). Part of the reason for his popularity is the range of topics on which Ibn al-Qayyim wrote, or the range of genres to which his works can be assigned: There are few subjects on which he did not offer a teaching, and he is consequently quoted in many varying contexts.

His most popular works today are his religio-ethical and eschatological works, such as *Madārij al-sālikīn* and *Kitāb al-rūh*, and his Sufi-oriented works, such as *Rawḍat al-muḥibbīn wa-nuzhat al-mushtāqīn*. But he is also known for his prolific legal writing. Ibn al-Qayyim belonged to the Ḥanbalī legal school (Laoust 1960), and although his relationship to other authorities of the school was complex (Melchert 2013; Mustafa 2013; El-Rouayheb 2010), his legal writings draw strongly on the teachings of Ibn Ḥanbal as well as on the sayings and practice of the earliest generation of Muslims. Amongst these legal works is *Aḥkām ahl al-dhimma*, the title of which can be translated as *Rulings for the Protected Peoples*. The protected peoples in this sense are the Jews and Christians who lived as permanent subjects of Islamic law and who had been granted protection (*dhimma*) of their persons and property in return for obeying certain laws and paying the *jizya* head tax (Emon 2017, 47–75). Ibn al-Qayyim’s text is ostensibly a compendium summarising the laws that the people covered by the *dhimma*, known as *dhimmīs* or the *ahl al-dhimma*, should obey. However, it also contains several discussions that are not typical for the legal genre, such as an analysis of views about the fate of non-Muslim children after their death or a detailed theological discussion of when meat slaughtered by a *dhimmī* may be eaten by a Muslim (Freidenreich 2010). Through the laws that he transmits, his explanation of these, and the additional discussion that he includes in the book, Ibn al-Qayyim conveys an argument to the reader about the place of non-Muslims in Islamic society. Although he does not question their right to live in the Abode of Islam, he teaches that because Jews and Christians rejected the truth brought by the Prophet, they should have a lower social status than Muslims. When interacting with Muslims, they should demonstrate their lower social status through their clothing and their body language as well as in the way that they speak with Muslims (Bosanquet 2020, 371–91). For Ibn al-Qayyim, the interaction between Muslims and the *ahl al-dhimma* plays a role in confirming the hierarchy of religions that has been decreed by God.

Ibn al-Qayyim’s main focus in *Aḥkām ahl al-dhimma* is the sphere of interaction between *dhimmīs* and Muslims (Ismail et al. 2015), and he is consequently less concerned with how *dhimmīs* should act towards one another within their own communities. In most cases he leaves the regulation of communal affairs to the leaders of the communities themselves, so long as the actors do not seek the intervention of Islamic authorities. An exception to this is constituted by questions relating to the religious identity of children. Here Ibn al-Qayyim indicates that Islamic law, rather than the decision of the Jewish or Christian authorities, should decide the fate of the child. This study examines Ibn al-Qayyim’s approach to the question of Jewish-Christian marriage, a matter that did not impinge directly on Muslims but which, because it arose from the relation between communities, could not be regarded as an internal affair specific to one or the other religious community either. I will summarize Ibn al-Qayyim’s ruling on the topic and then relate it to the wider historical context by considering the evidence for romantic Christian-Jewish relations in a Geniza fragment from the fifth/eleventh century. I will then analyse Ibn al-Qayyim’s teaching about the identity of children born from a relationship between a Jew and a Christian. Although he does not explain

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his teaching in *Aḥkām ahl al-dhimma*, its import becomes clearer when related to his teaching about religious hierarchies in his theological work, *Hidāyat al-ḥayārā fī ajwibat al-yahūd wa-l-naṣārā*, and the relevance that he awards the child's religious identity in other passages of *Aḥkām ahl al-dhimma*. These aspects will be brought in to illuminate Ibn al-Qayyim's teaching about the child born in an inter-religious marriage that does not involve Islam.

## Jewish-Christian Marriage in *Aḥkām ahl al-dhimma*

The section on laws relating to marriage is the third-largest chapter in *Aḥkām ahl al-dhimma*. [4] Ibn al-Qayyim lists hundreds of rulings drawn from a wide variety of legal sources and discusses these in length, often comparing and explaining different views on the same question. The length of the section reflects the importance that the topic held for Ibn al-Qayyim. Marriage was not only the most basic building block of Mamluk society, it was also a key forum for socialization and an important arena for forging cultural and political connections (Simonsohn 2021, 51–70). Ibn al-Qayyim's attention may also correspond to David Nirenberg's observation (2014, 90) that sex was a primary means by which to articulate religious classification. Given the central role of sex within the Islamic legal concept of marriage (Ali 2010, 189–91), something that is also evident in Ibn al-Qayyim's own legal writing (Bosanquet 2019, 23–27), his discussion of inter-religious marriage can also be seen as an attempt to construct religious boundaries by explaining categories of sexual accessibility.

Most of the regulations that Ibn al-Qayyim presents address marriages between a Muslim man and a non-Muslim woman, but there is also a detailed discussion of how to regulate marriages in which one or both spouses has converted to Islam (Bosanquet 2019; Friedmann 2003, 165–7). In these discussions the focus is on whether the couple should be separated and if so, what form of financial compensation the woman should receive. Not only the length and detail with which Ibn al-Qayyim discusses the legal problems relating to inter-religious marriage, but also the energy with which he defends certain positions and refutes others, reflects his interest in this topic. [5]

Ibn al-Qayyim critiques, commends and compares a wide variety of earlier teachings when building his own argument on any question. His discussion in this chapter draws heavily on the teaching of Ibn Taymiyya, *Kitāb al-Mughnī* by the Ḥanbalī jurist Ibn Qudāma (d. 661/1223) and *al-Istidhkār* by the Mālikī jurist Ibn 'Abd al-Barr,<sup>2</sup> amongst others. Although these larger legal compendia mainly address the topic of marriage between Muslims, dedicating just a few pages or paragraphs to inter-religious marriages, Ibn al-Qayyim only presents the rulings that are relevant for his interest in *dhimmī*-Muslim relations, omitting the other parts of the text. [6]

In addition to these more general legal compendia, he also quotes extensively from an earlier work dedicated specifically to non-Muslim subjects of Islamic rule. *Ahl al-milal wa-l-ridda wa-l-zanādiqa wa-tārik al-ṣalāt wa-l-farā'id* is a fourth/tenth-century legal work written by the student and disciple of Aḥmad b. Ḥanbal, Abū Bakr al-Khallāl (d. 311/923). Al-Khallāl's work is shorter than *Aḥkām ahl al-dhimma*, as it is limited to transmitting Ibn Ḥanbal's teaching without authorial discussion or comparison with other teachings. Neither is it a separate work, as Ibn al-Qayyim's book was, but a volume of a larger collection of Ibn Ḥanbal's teaching, most of which has not survived. Despite these differences, it is clear that *Ahl al-milal* was an important source for *Aḥkām ahl al-dhimma* and that large sections of Ibn al-Qayyim's book are [7]

2 The full title is *al-Istidhkār al-jāmi' li-madhāhib fuqahā' al-amṣār wa-'ulamā' al-aqtār fī-mā taḍammanahu al-muwaṭṭa' min ma'āni al-ra'ywa-l-āthār* (1993).

copied directly from that of al-Khallāl. Ibn al-Qayyim's discussion of marriage continues this pattern and cites most of the teachings about inter-religious marriage that al-Khallāl transmits from Ibn Ḥanbal, although Ibn al-Qayyim often intersperses these with teachings from other sources.

Within his discussion of marriage between Muslims and non-Muslims, Ibn al-Qayyim also refers to marriages between Jews and Christians. He opens his discussion of this topic as follows: "And if it is said, 'What do you say about a Christian man who marries a Jewish woman, or vice versa? Do you let them remain married or not?'" (1961, 396).<sup>3</sup> [8]

Whereas many of the other questions that Ibn al-Qayyim discusses in his chapter on marriage are treated by earlier authors, this question does not appear in earlier sources. It is not mentioned by Ibn Qudāma or Ibn 'Abd al-Barr, and neither does it feature in Abū Bakr al-Khallāl's transmission of Ibn Ḥanbal's answers to questions about inter-religious marriage (al-Khallāl 1996, 235). The lack of earlier written material on this topic is reflected in the way that Ibn al-Qayyim presents the question. Rather than beginning his discussion by quoting an earlier legal authority's view on the subject, as he often does throughout the book, in this case he introduces the discussion with the more anonymous and hypothetical formula "if it is said." Neither is he able to refer to earlier discussions to support his own view on the subject. The closest teaching that he can find to his concern is Aḥmad b. Ḥanbal's view that a marriage between a Zoroastrian man and a Christian or Jewish woman should be dissolved (Ibn al-Qayyim al-Jawziyya 1961, 396). But this teaching is not directly relevant to his own question, and the conclusion that he reaches is different. Rather than ruling that the marriage be dissolved, Ibn al-Qayyim recommends that the communal authorities themselves decide on whether the union is legal or not. [9]

If they think that it is permitted, then it should be allowed, and no objection should be made to them. And if they regard it as prohibited then we do not permit them to remain married. For we do not permit them to remain in a marriage that they see as prohibited. That would be fornication (*zinā*). (Ibn al-Qayyim al-Jawziyya 1961, 396) [10]

Thus Ibn al-Qayyim delegates the judgement to the legal authorities of the communities in question. He specifies that, as long as the relation is legal within their own community, the Islamic jurists are not compelled to interfere, much less to prohibit the relationship. If they are asked to rule on the question, they should defer to the judgement of the Jewish or Christian authorities as to whether the marriage in question can be legally sanctioned or not. [11]

On one level, Ibn al-Qayyim's approach to this question corresponds to his stance about most private affairs within the non-Muslim communities. As he reiterates throughout *Aḥkām ahl al-dhimma*, if a relation or transaction between two non-Muslims does not involve a Muslim and if the non-Muslim parties themselves do not ask an Islamic jurist for a ruling, then the Muslim jurist is not required to intervene, even if the relation or transaction contravenes Islamic law (Ibn al-Qayyim al-Jawziyya 1961, 391–92). Ibn al-Qayyim's position on this question was relatively standard for the Islamic legal tradition. Like their Byzantine and Sassanian predecessors, the Muslim rulers allowed the ecclesiastical authorities to retain their judicial privileges after the conquest, and this approach was incorporated into the legal regulation of non-Muslim residence (Fattal 1958, 344). These communities were not required to apply Is- [12]

3 All translations by the author unless indicated otherwise.

lamic law within their own communities, although they were permitted access to the Muslim courts if they wished to consult an Islamic judge.

As the studies of Uriel Simonsohn, Oded Zinger and Marina Rustow have shown (Simonsohn 2007, 328–63; Rustow 2009, 133–39; Zinger 2018, 159–92), members of both the Christian and the Jewish communities often availed themselves of this permission, and it is not uncommon to find references to recourse to an Islamic judge in the historical and literary documentation from both communities (Vööbus 1975). The motivation for this varied, and probably included making a particular agreement more enforceable or counteracting a less advantageous ruling that the applicant’s own communal authority would have given him or her (Zinger 2020, 39). If the Islamic judge was asked to rule on a certain case, he would rule according to Islamic law, and the ruling would take precedence over the ruling given by the Christian or the Jewish authority. [13]

Ibn al-Qayyim’s approach in *Aḥkām ahl al-dhimma* reflects this structure of interaction, and he sometimes recommends a specific response to the jurist who is asked about a question originating outside the Muslim community. One example is Ibn al-Qayyim’s recommendation cited above, that the jurist rule a marriage between a Zoroastrian and a Jew or Christian as invalid and order its dissolution. His reluctance to specify a particular ruling in the case of a marriage between a Jew and a Christian, and his recommendation to the jurist to follow the advice of the authorities themselves, is less common in *Aḥkām ahl al-dhimma*. In addition to his respect for non-Muslim systems of norms and sanctions, his answer here may also reflect the fact that he was unable to find a ruling on the question in other Islamic legal compendia and was therefore unsure about which answer to give. [14]

The fact that in this case the hypothetical marriage involves not one, but two religious communities is not mentioned by Ibn al-Qayyim. He does not refer to the questions of whether the judge is obliged to consult the legal authorities of both communities, or how to respond if an authority from one community permits the marriage and an authority from the other community prohibits it. This may well reflect the theoretical nature of his discussion, or at least the lack of consideration, on his part, about the practical implementation of his ruling. It also corresponds to his relatively undifferentiated depiction of non-Muslim communities and individuals throughout *Aḥkām ahl al-dhimma* (Bosanquet 2020, 377). In other works of his, such as his theological text *Hidāyat al-ḥayārā fī ajwibat al-yahūd wa-l-naṣārā*, Ibn al-Qayyim refers to some of the sects and sub-groups that the Jewish and Christian communities of Mamluk Syria and Egypt comprised. But these references are rare in *Aḥkām ahl al-dhimma*, and even the difference between Jew and Christian is elided in many discussions. This suggests that the primary focus of *Aḥkām ahl al-dhimma* is the regulation of the *dhimmī* as a legal category, rather than the smaller groups into which this category could be divided. However, as will be shown below, the difference between Jews and Christians does have a theological relevance for Ibn al-Qayyim, and this in turn impacted on his interpretation of some legal questions, such as the status of the non-Muslim child. [15]

## An Irrelevant Question? Contextualizing Ibn al-Qayyim’s Discussion

Before addressing Ibn al-Qayyim’s teaching about a child born from a Christian-Jewish union, it is worth asking why Ibn al-Qayyim included a question about Christian-Jewish marriage at all. As shown by his lack of references to earlier teaching, the subject was not a standard [16]



part of legal discussions about marriage, not even in the few compendia dedicated to non-Muslim affairs. It remained a peripheral question after being discussed by Ibn al-Qayyim as well. Although some jurists, such as the Ḥanbalī jurist Muṣṭafā al-Suyūṭī al-Raḥaybānī (d. 1243/1827), mention the question in passing (al-Raḥaybānī 1961, 112), most ignore the topic completely.

Why then, does Ibn al-Qayyim discuss the question in *Aḥkām ahl al-dhimma*? Is it because his focus on Jews and Christians led him to include even those topics that other jurists ignored? Or had the topic gained a more general relevance at the time that he was writing, which led him to consider it from a legal angle? In *Aḥkām ahl al-dhimma*, Ibn al-Qayyim also presents detailed discussions of other topics that are not standard elements of legal compendia, such as the punishment due to a *dhimmī* who curses the Prophet, or the employment of Jews and Christians in Muslim administration. In the case of non-Muslim employment Ibn al-Qayyim's attention can be related to a broader interest in the topic in the public sphere and the resonance that this was beginning to have with some circles of scholars. This is reflected by the fact that polemical texts written by authors outside the sphere of legal scholarship around the same time as the composition of *Aḥkām ahl al-dhimma* invoke this phenomenon as a problem facing Muslims and Muslim society (Yarbrough 2019, 2012; Perlmann 1945). [17]

But it seems unlikely that the question of Jewish-Christian marriage could have attracted enough public interest to motivate its discussion by the Muslim jurists. The legal literature from the Jewish and the Christian communities under Muslim rule indicates that marriage outside the faith community was prohibited, even though the approach of Christian authorities became more accommodating as political and demographic realities changed. Both the West and the East Syriac Church prohibited the marriage of a Christian woman outside the community, although the prohibition appears not to have been as strict in the case of men who, it was assumed, would bring their wives into the community and whose children would also be raised as Christians (Weitz 2018, 205). After the Arab conquest, the political and social dominance of Muslim men meant that, despite this legislation, marriages between Christian women and Muslim men became more common, whether through the conversion of Christian husbands or the marriage of Christian women into the incoming Muslim class. As Lev Weitz and Uriel Simonsohn have shown, the weaker position in which the Christian community found itself meant that clerical authorities did begin to accept the woman's adherence to the community even after her marriage to a non-Christian (Weitz 2018, 213). But this was for pragmatic purposes, as the Christians were forced to accommodate their new conquerors' social and political dominance. The same motivation would not have existed to accommodate marriage between a Christian woman and a Jew, as the Jewish community did not hold the same social or political status. [18]

Jewish authorities did not permit Jewish men or women to marry non-Jews, and this prohibition did not change after the Muslim conquest (Cohen 1983, 23–39). Literary descriptions of relationships between Jews and Christians, such as the affair between Masrūr and Zayn al-Mawāsif in *Alf layla wa-layla*, recounted between nights 845 and 863 (Burton 1885–1888, 8:205–263; Marzolph, Van Leeuwen, and Wassouf 2004, 1:294–295; Bochman 1997, 39), or the flirtatious exchange between a Jewish man and a Christian woman discovered in the Cairo Geniza (Zinger 2020, 206), reveal an interest in this topic as a literary motif but are not necessarily descriptions of historical events.<sup>4</sup> A small number of references to sexual relations between Jews and non-Jews (Nirenberg 2014, 38–42), including the responsa of Maimonides [19]

4 I thank the anonymous peer reviewer for these references.

regarding sexual intercourse between a Jew and his non-Jewish slave (Perry 2020, 469–70), reveal that the prohibition of sexual contact outside the Jewish community was sometimes contravened, but these are references to sexual relations rather than the institution of marriage. Although some literary and documentary sources refer to Jews marrying Muslims after the Jewish partner had converted to Islam (Goitein 1967–1988, 3:158), Jewish exogamy without conversion is not mentioned.

It seems indisputable, therefore, that Christian-Jewish marriage was extremely rare. The social or political advantages that marriage with a Muslim may have brought a Christian or a Jew would not have been relevant for Christian-Jewish unions, and it is likely that pressure from within the community, or the fear of isolation, would have deterred most members from taking this step. If internal pressure was not sufficient to nip prospective relationships in the bud, recourse to an external authority could have forced a couple to separate. The most obvious choice for such an authority would have been the Muslim *qāḍī*, as his judgement was binding on both Jews and Christians. Recourse to a Muslim *qāḍī* would have been useless to prevent a marriage between a Jewish or Christian woman with a Muslim man, since a marriage of this nature was permitted according to Islamic law. But if the *qāḍī* was not aware of an unambiguous ruling on Jewish-Christian marriage, or could be persuaded of its nefarious nature by his advisors, then a prohibition by him would be an effective means of discouraging group members from marrying outside the community. [20]

Is it possible that Jews or Christians appealed to Islamic judges to prevent this form of exogamy, and could this be seen as the background to Ibn al-Qayyim's discussion? Neither question can be answered with any certitude. But a document in the Cairo Geniza does suggest that Jews appealed to a *qāḍī* at least once, to prevent a Jewish woman from continuing her affair with a Christian man, and probably to punish the Christian man as well. In the following, I will outline the import and significance of the Geniza document before considering its relevance for the ruling given by Ibn al-Qayyim. [21]

The document was stored in the Cairo Geniza, a repository of a wide variety of written documents produced or received by the Jewish community up until the sixth/twelfth century, and is now kept in the Taylor-Schechter Collection in Cambridge University Library, with the classmark Or.1080 J93. It was translated and analysed by Shelomo Goitein (1967–1988, 5:314–8), who identified it as a court deposition, written in Judaeo-Arabic and probably dating to the fifth/eleventh century. The deposition covers two sides of a single paper sheet and is torn at the bottom, meaning that part of the text is lost. Despite this damage it is still possible to discern the names of the three witnesses which, unlike the rest of the text, have been written in Arabic at the end of the deposition. The use of Arabic script at the end of a document written in Hebrew is unusual, and the most likely explanation is that the deposition was prepared to be submitted to a Muslim judge, who would not have read Hebrew.<sup>5</sup> Although the content of the deposition could be read out to the judge, he would have wanted to read the names of the witnesses himself, meaning that they had to be written in Arabic. [22]

The document contains an account given by a Jewish physician who describes himself as sharing a shop, or practice, with a Christian physician. He narrates that while working in the practice, he (the Jewish physician) noticed that a woman had begun to visit the shop regularly and that she would sit and make conversation with his Christian partner. The witness describes himself as initially supposing the woman to be Muslim but, upon making inquiries, [23]

5 It is also possible that two copies were written, one to submit to the judge and one to keep, but if this were the case, the second copy has not survived. I thank Barbara Roggema for this point.

discovering her to be a Jew. According to his account, the budding friendship had attracted the interest and annoyance of Muslims within the community, and matters came to a head when the female visitor asked the Christian physician to accompany her to a patient who was unable to leave his home. After finishing his work for the day, the Christian physician rode away with the lady, but they were followed by two hood-makers (*qalānsiyyūn*) who spied on the couple and must have informed the Jewish physician of what they had seen.

We do not discover what the Muslim hood-makers saw during the couple's sojourn. However, the Jewish and Muslim community were evidently angered by the dalliance between the Jewish woman and the Christian physician. The deposition seems to have been written with the intention of putting the woman's case before a Muslim judge, which would explain why the names of the Jewish witnesses are written in Arabic script rather than Hebrew, which the Muslim *qāḍī* would not have been able to read. The fact that the document was retained in the Geniza, rather than being deposited among the judge's records, might suggest that the case was never submitted to the Muslim court and that the deposition was only written as a threat to discourage the woman from continuing the relationship. But it is also possible that a second copy was made for the community's records, or that the Jews were permitted to keep the document after the case was ended. There is no indication as to whether the judge saw the document or what ruling he passed on the couple. [24]

The Jewish physician's account is interesting for what it reveals about the social milieu in which he lived, and the relations among the non-Muslim community around him. It is clear, for example (Goitein 1967–1988, 5:315), that the clothing restrictions that legal authors often specified for Jews and Christians were not being followed by the female customer, as the physician was unable to tell from her appearance whether she was Jewish or Muslim. Jewish and Christian clothing regulations, also known as the *ghiyār*, were an important element of the legal regulation of non-Muslim subjects. Some of the regulations feature in the Pact of 'Umar, a list of conditions agreed upon by the Christians of Syria in return for the permission to continue living in the region as Christians following the Muslim conquest (Levy-Rubin 2009, 360–4; Yarbrough 2014, 113–21). Other requirements, such as the specification that non-Muslim men should wear conical hats, or that non-Muslim women should wear a single red shoe, were developed and elaborated on by later jurists. For example, in his section on "How to treat Apostates, Pagans, and *Dhimmīs*," in his *Kitāb al-kharāj* the Ḥanafī jurist Abū Yūsuf (d. 182/798) specifies that non-Muslims should wear conical hats, hang wooden balls from their saddles and wear a particular kind of sandal rather than the shoes worn by Muslims. He also rules that *dhimmī* women should be prevented from riding on saddles (Abū Yūsuf 1979, 127). The most basic specification in the Pact of 'Umar, and the main concern of the jurists, was that Jews and Christians should distinguish themselves from Muslims by their manner of cutting their hair and wearing a girdle (*zunnār*) over their clothing, as well as avoiding certain clothing items that were worn by Muslims (Levy-Rubin 2011, 94; Zinger 2019, 22). Most of the clothing specifications were more relevant for men, but the explanation of the fourth/tenth-century jurist Abū l-Shaykh al-Iṣbahānī (d. 369/979) indicate that the obligation to dress one's hair a certain way and to wear a belt over one's clothing also applied to women: [25]

'Umar b. al-Khaṭṭāb wrote: And order the *dhimmī* women to fasten their belts (*zunnārāt*), and let down (*yurkhīna*) their forelocks [. . .] that their clothes may be known from [those of] Muslim women. (quoted in Yarbrough 2014, 116) [26]

Had the flirtatious customer of the physician been adhering to the dress code promulgated [27]



by the Pact of ‘Umar, she would have been easily distinguished as a *dhimmī* and the witness would not have been able to claim that he initially thought her to be a Muslim.

The fact that the Jewish and Christian physicians shared a practice and that it was conceivable for the practice to be visited by a Muslim customer also suggests that the Jewish, Christian and Muslim communities lived and worked in relatively close contact. The practice of medicine, at least outside the court circles where more physicians appear to have been Muslim, was a field often left to the Jews and Christians, to the extent that the Mālikī jurist Ibn al-Ḥājj al-‘Abdarī (d. 736/1336) bemoaned the control that this gave non-Muslims over the bodies of the Muslims (Ibn al-Ḥājj al-‘Abdarī 1929, 113–15), and in 853/1448 an edict prohibited Christian and Jewish doctors from treating Muslim patients (al-Sakhāwī 1896, 215). As both Ibn al-Ḥājj’s complaints and the edict make clear, many Muslims had no reservations about consulting a non-Muslim physician and neither, it appears, was the religious difference between Jew and Christian an impediment to working together in the same space. As Sarah Stroumsa has shown (Stroumsa 2020, 40–47), professional friendships between Muslim and Jewish physicians were also possible.

Both the inference that the non-Muslim woman was not adhering to clothing restrictions and that social and professional contact between the religious communities was a common phenomenon are supported by references in documentary sources (Zinger 2019, 24–25). It is also indicated by texts composed around the same time that Ibn al-Qayyim was writing in which the writer complains that non-Muslims were ignoring the clothing rules or that the ruler failed to apply the rulings in a consequent manner (*Manhaj al-ṣawāb fī quḥ istiktāb ahl al-kitāb* 2002, 150). Ibn al-Qayyim also refers to the professional contact between the religious groups, albeit in a less exasperated fashion. Unlike Ibn al-Ḥājj, he regards professional contact or commercial transactions between Muslims and their Christian and Jewish counterparts as unexceptional, so long as the hierarchy between the religions was observed, or demonstrated, by all parties.

A further relevant detail is the annoyance that the Jewish woman’s flirtation with the Christian physician is said to have caused the Muslim community. The witness does not explain why the Muslims were so perturbed by the relation that they sent the hat-makers to spy on the couple, and it is possible that he invented their irritation to influence the decision of the Muslim judge, or that the Muslim hatmakers were encouraged to spy on the couple by Jewish community members. But if this is not the case, what explanation can be put forward for the Muslims’ indignation? Was it simply the woman’s brazen flirtation in a relatively public space that infuriated them? Even if neither of the people involved were Muslims, their behaviour threatened public morality, in which the separation of the sexes played an important role. It is possible that the religious difference between the man and the woman was an additional factor for the discomfort of the Muslim onlookers, but the primary explanation is probably the transgression of separation norms in public space.

Goitein indicates that these norms were less strict among Jews than in the Muslim community (Goitein 1967–1988, 5:310–2), but it is clear that for the Jewish witnesses, too, the woman’s behaviour was unacceptable. It is apparent from the emphasis on the religious identities of the actors in the deposition that the religious difference was an additional and significant cause for the witnesses’ anger. We learn nothing about how the Christian community reacted to the scandal, or whether the fact that the Christian physician was a man made his dalliance less problematic in their eyes. Neither do the Jewish witnesses mention why they are bringing the case to the Muslim judge rather than keeping the scandal within their own

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community. Was it simply because the greater audience that the case would reach would bring more shame to the woman? It is likely that the Jewish witnesses were appealing to the Muslim *qāḍī*'s ability to impose a ruling on both the Jewish and the Christian culprit, whereas a Jewish authority could only punish members of his own community.

Although the document discussed here only refers to a flirtation and not a marriage between a Christian man and a Jewish woman, it shows that Jewish community members did appeal to the Muslim *qāḍī* in regard to intercommunal affairs, even when these were not relevant for Islamic law. This makes it more conceivable that a case regarding intercommunal marriage could also be put to a Muslim *qāḍī*, who would then have to search for an appropriate ruling. The fact that the Geniza document dates to the mid-fifth/eleventh century need not exclude it from the context in which Ibn al-Qayyim wrote. Other discussions in *Aḥkām ahl al-dhimma* refer to queries and cases that originated from a much earlier context and which must have lost their practical relevance by the time that he was writing. For example, he treats the problem of a child convert to Islam, who is already the husband of ten women at the time of his conversion and who has not yet reached the stage of sexual maturity that would enable him to decide which of his wives to divorce, in great detail (Bosanquet 2020, 240–1). Rather than seeing Ibn al-Qayyim's discussion as relating to a common phenomenon in the Mamluk society in which he wrote, it is more realistic to regard him as considering a much earlier question and relating the practicalities and implications of the dilemma to the theoretical framework in which he wrote his work. Similarly, his discussion about Christian-Jewish marriage could relate to his knowledge of a much earlier case, which attracted his interest because of its relevance to the broader argument that he was making. This relevance is also evident in his ruling about children of a Jewish-Christian union, which will be reviewed in the following section.

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## A Child Born from a Christian-Jewish Union

Ibn al-Qayyim recommends the jurist consulted about a Jewish-Christian marriage to apply the ruling that the rulers of the communities themselves regard as authoritative. This reflects his primary concern, which is to prevent or punish illegal sexual activity within the non-Muslim communities living under Islamic rule. How the communal authorities define legal and illegal sexual activity is a secondary concern, so long as the norms do not depart too far from Islamic concepts of marriage and sexual virtue. By contrast to this hands-off approach with regard to the couple, Ibn al-Qayyim adopts a stricter view of the regulation relating to children born from a Christian-Jewish union, legal or otherwise. Rather than leaving the question of the child's identity to the couple, or to the community, to decide, he lists possible forms of inter-religious relations and specifies which religious identity a child born to each of these would take.

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Regarding the ruling about the child and whether it should take the religion [lit. follow, *yatba*<sup>c</sup>] of the father or the mother: the child should follow the parent who has the better religion. If the *kitābī*<sup>6</sup> has intercourse with a Zoroastrian woman, then the child is a *kitābī*. But if a Zoroastrian man tricks a *kitābī* woman into intercourse with him, then the child is a *kitābī* too. And if one of the couple is

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6 *Kitābī* is a reference to the Jews and Christians. It is derived from the Arabic word *kitāb*, or Scripture, and refers to the notion that these two religions are, like Islam, based on a holy text containing a form of divine message.

Jewish and the other is Christian, then the obvious ruling is that the child should be Christian. (Ibn al-Qayyim al-Jawziyya 1961, 397)

His teaching explicitly rejects the possibility that the father's religion is constitutive for that of the child. Rather than the parentage, the question of which religion the child adopts is determined by the status of the religion itself and its relation to a hierarchy of religious truth. Ibn al-Qayyim refers to his concept of religious hierarchy in several of his works, including *Tuḥfat al-mawdūd bi-ahkām al-mawlūd*, *Zād al-ma'ād fī hady khayr al-'ibād and Ḥādī l-arwāḥ ilā bilād al-afrāḥ*. However, his fullest discussion of the topic is given in *Hidāyat al-ḥayārā fī ajwibat al-yahūd wa-l-naṣārā* (Guidance for the confused concerning answers to Jews and Christians), a theologically oriented work which he composed before he began *Ahkām ahl al-dhimma* (Holtzman 2009, 214). Ostensibly a compilation of responses to non-Muslims resisting conversion, *Hidāyat al-ḥayārā* also contains a long section dedicated to Jewish and Christian errors and another to the proofs of the Prophethood of Muhammad and the truth of Islam (Hoover 2013, 996–1002; Schlosser 2013, 422–58). [35]

The supersession of the earlier religions is an important element of Ibn al-Qayyim's argument for the truth of Islam. He depicts paganism, the lowest and most incomplete form of divine worship (Ibn al-Qayyim al-Jawziyya 2004, 24), as having been superseded by Judaism, which he depicts as the advent of monotheism and scriptural religion. Judaism was in turn superseded by Christianity, which he presents as more beloved by God and whose followers have incurred less divine wrath. But both Judaism and Christianity were superseded by Islam, the final religion that rendered the earlier monotheistic faiths obsolete. Thus Ibn al-Qayyim links the status of the different faiths, or their relation to God, to a temporal spiritual progression. He depicts humanity working towards religious perfection through history and reaching this in the Prophet's revelation of Islam. With the revelation of Islam, the process of temporal progression reached its fulfilment and there is no need for further prophets, revelations or secondary religious movements. By presenting religious development in this fashion, Ibn al-Qayyim not only establishes the superiority of Islam over the religions that it has superseded, but also confirms the irrelevance of non-Sunni Islamic movements. As developments that occurred after the moment of fulfilment embodied in the Qur'anic revelation, he implies, they can only be seen as a deviation from the divine message that the Prophet Muhammad brought (Ovadia 2018, 180–84). [36]

Ibn al-Qayyim's concept of temporal religious progress encompasses the prophets and the Scriptures of the other monotheistic religions. According to his conceptualization, the previous prophets were aware that the religious traditions that they served would eventually give way to the religion of Islam. He depicts them as having predicted the coming of Islam to their followers and recording their predictions in the Scriptures (Lazarus-Yafeh 1992, 75–110). Thus, argues Ibn al-Qayyim, a person who has fully understood the message of Judaism and Christianity would also understand this message and convert to Islam, as instructed to do by his prophets (Accad 2005, 217–36; Lazarus-Yafeh 1996, 61–84). [37]

As the temporal structure of the religious hierarchy in *Hidāyat al-ḥayārā* suggests, Ibn al-Qayyim regards Judaism as a lower or less valid religion than Christianity. This is primarily a judgement of the Jews themselves, whom Ibn al-Qayyim depicts as having perverted and ignored the message brought by Moses and other prophets and abandoned the way that God set out for them. He depicts Jews as having added laws of their own making to the divine law (Ibn al-Qayyim al-Jawziyya 2004, 173), of worshipping idols (2004, 177), of distorting their Scriptures and of rejecting the prophets that God sent to them. In this context Ibn al-Qayyim [38]

emphasizes the atrocity of the Jews' treatment of Jesus, whom they should have accepted as a prophet of God but whom they rejected in order to maintain their own worldly status. He relates their stubborn disobedience to their loss of a homeland and the oppression to which the diaspora has often been subjected (2004, 177), seeing this worldly fate as a punishment for their religious crimes. He concludes his account by referring to the Jews as the community that is the most misguided and disrespectful towards God, listing a litany of sins including usury, lack of mercy, greed and immorality (2004, 178).

Compared to this depiction, his description of the shortcomings of the Christians is relatively measured. The Christians worship the Cross and painted pictures (2004, 179); they have so little respect for the Almighty that they attribute a human nature to Him and depict God as having the same bodily functions as they do. They pray to Mary, seeking her intervention with the divinity (2004, 180–81), and despite the fact that Jesus adhered to the law they have abandoned it, preferring to live and pray in impurity, to freely consume pork and alcohol, and to conduct sexual relations without proper regulation (2004, 183–84). Their foolishness is also reflected in the history of their church councils, which Ibn al-Qayyim summarizes in some length. His account, which is probably based on the transmission of Ibn Baṭrīq's church history in Ibn Taymiyya's *al-Jawāb al-ṣaḥīḥ li-man baddala dīn al-masīḥ* (Hoover 2013, 998), depicts the church councils as responsible for the changes in Christian doctrine over the years that have led the faith away from the pure form brought by Jesus to one closer to the base ambitions of men.

This is a harsh assessment, but it is not as damning as Ibn al-Qayyim's view of Jewish history and belief. The Christians recognized the prophecy of Jesus, albeit in a mistaken manner, and for this, he argues, they have been blessed by God. In his account, their distortion of the divine message is a result of stupidity rather than malevolence, as it is in the case of the Jews. It is for this reason, he argues, that the Christians have been permitted to retain some of their earthly power, or political control over a limited territory, while this has been confiscated from the Jews.

The religious hierarchy that Ibn al-Qayyim presents in *Hidāyat al-ḥayārā* features relatively rarely in *Aḥkām ahl al-dhimma*. This is partly because the rulings that he transmits do not distinguish between Christians and Jews, usually subsuming both beneath the broader category of *dhimmi*. For example, although the Pact of 'Umar was allegedly concluded with the Christians of Syria and only refers to Christian customs and practices, it is interpreted in the legal tradition as applicable to both Christians and Jews, by virtue of the fact that both groups held the same status as *dhimmi* communities. It is also a reflection of the main concern of the book, which is to establish the pre-eminence of Islam in a social and political context, rather than to instrumentalize a more differentiated religious hierarchy.

However, the identity of the child born from a Jewish-Christian union carries a significance that goes beyond the purely social context. Like the question of whether non-Muslim children may enter Paradise, which Ibn al-Qayyim also discusses in *Aḥkām ahl al-dhimma*, the child's religious identity is a question touching on eschatological questions, and on a wider field of inter-religious polemic. Therefore, regardless of whether his ruling is likely ever to be put into effect, Ibn al-Qayyim's teaching on the matter draws upon and corresponds to his wider theological teaching about religious difference. At the end of his discussion of Jewish-Christian marriage he explains the reason for his ruling by briefly relating it to the hierarchy between the religions:

Regarding the ruling about the child and whether it should take the religion [lit.

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follow, *yatba*'] of the father or the mother: the child should follow the parent who has the better religion. [...] The Christians believe in Moses and the Messiah, but the Jews denied the truth of the Messiah. And so the Christians are closer to the Muslims. And the Jews are better than those who have denied all the prophecies. The more faith a man has in the prophecies, the better he is than the one who denies [them]. (Ibn al-Qayyim al-Jawziyya 1961, 397)

Ibn al-Qayyim concludes his discussion of the Jewish-Christian union by relating the Jewish rejection of divine will to their complete lack of political sovereignty and the limited favour that Christians find with God to their limited political power in the present age. [44]

After the sending of Jesus the Jews deviated from the law of Moses and Jesus entirely. The law of Moses was temporary and ended with the coming of Jesus, and they should have followed him. That is why God said, “Thou wilt surely find the most hostile of men to the believers are the Jews and the idolaters; and thou wilt surely find the nearest of them in love to the believers are those who say “we are Christians”.” (Q 5: 82)<sup>7</sup> And for this reason God, praise be to him, kept a realm (*mamlaka*) for the Christians in the world. And he deprived the Jews of their property (*mulk*) and of their honour (*‘izz*) entirely, until the Day of Judgement. (Ibn al-Qayyim al-Jawziyya 1961, 397) [45]

He does not develop this point elsewhere in the book or relate other political circumstances to the religious status of the Jews and Christians. Rather, this observation about the historical-political circumstances serves to support the more basic argument that Judaism and Jews occupy a lower rank in the religious hierarchy than Christians do, and the ruling that he derives from this view is that the children of a Jewish-Christian marriage must take the religious identity of the Christian parent and not that of the Jew. [46]

## Children and Religious Hierarchy in Ibn al-Qayyim’s Worldview

The notion of a hierarchy between the religions and the relevance of this for the religious identity of children born to mixed marriages are not topics that are unique to Ibn al-Qayyim (Friedmann 2003, 173–77), but most discussions focus on marriages between polytheists and monotheists, or between Muslims and non-Muslims. The identity of a child born from a Christian-Jewish marriage is not discussed in any of the source texts to which Ibn al-Qayyim refers in *Aḥkām ahl al-dhimma*.<sup>8</sup> The fact that he does not support his teaching by referring to other authorities, instead only describing his view as “*al-ẓāhir*,” or the apparent teaching to be drawn from the sources, also suggests that the question was not widely discussed. [47]

The attention that Ibn al-Qayyim pays to the religious identity of a child born outside the Muslim community reflects his view of the child as less unambiguously part of the *dhimmī* community than the adult was. Although he clearly recognises the rights of non-Muslim adults to administer their private lives, their families and their communities according to their own religious rulings, the extent to which the non-Muslim child belongs to this sphere of autonomy [48]

7 Translation from Arthur John Arberry (1955, 1:141).

8 Yohanan Friedmann (2003, 175n81) mentions al-Khallāl’s discussion of this question, but the reference that he gives (al-Khallāl 1996, 92: no. 64) is to the practice of Muslims marrying non-Muslims on the agreement that the couple’s sons would be Muslim and their daughters would take the mother’s religion.



is less clearly defined. This is reflected in his discussion, in *Aḥkām ahl al-dhimma* and his earlier work, *Shifā' al-'alīl fī masā'il al-qadā' wa-l-qadar wa-l-ḥikma wa-l-ta'līl*, about when a *dhimmī* child may, should and must convert to Islam. Here Ibn al-Qayyim outlines certain situations in which the religious independence of the community is not a sufficient ground for a child born within this community to adhere to its faith (Ibn al-Qayyim al-Jawziyya 1961, 490–523). A related topic is the question of how the religious identity of non-Muslim children relates to inter-religious boundaries. Ibn al-Qayyim considers this question in his discussion about the fate of Christian and Jewish children after their death, in *Aḥkām ahl al-dhimma* and his eschatological work *Ṭarīq al-hijratayn wa-bāb al-sa'ādātayn* (Ibn al-Qayyim al-Jawziyya 2008). His discussion of the various viewpoints on this question reflects his reluctance to accept the position that Christian and Jewish children enter Paradise when they die, given that they are non-Muslims at the time of their death and that Paradise is a place of Muslim reward (Ibn al-Qayyim al-Jawziyya 1961, 632–40). However, if they have died before reaching the age where they are held responsible for their actions, it is equally problematic, in Ibn al-Qayyim's view, to assign them to Hell, which he understands as a place of retribution. In contrast to other jurists, who argue that non-Muslim children should be admitted to Paradise because of their lack of responsibility for the sins that they commit, Ibn al-Qayyim reflects the fact that he takes the non-Muslim identity of the children seriously, despite their young age.

In another passage in *Aḥkām ahl al-dhimma*, Ibn al-Qayyim discusses the fate of the Jewish or Christian child after the death of the parents, indirectly relating it to the concept of religious hierarchy outlined in the preceding section. He argues that an orphaned child should be placed in Muslim custody and raised as a Muslim rather than being given to relatives or other members of their own faith community. His explanation for this rests on his conceptualization of the *fiṭra*, or inherent nature, of the child, as oriented towards Islam. According to this view of the *fiṭra*, a child's natural disposition to accept religious truth would lead him or her towards Islam, even if he or she was not born a Muslim. The primary obstacle to the realisation of the *fiṭra*, according to Ibn al-Qayyim's conceptualization, is the child's upbringing by non-Muslim parents. He quotes a well-known prophetic hadith to support this: [49]

Every newborn is born in a state of *fiṭra*. Then his parents render him a Jew or a Christian or a Zoroastrian. This is the same as animals which deliver their offspring perfect in form. Do you detect a mutilation before you mutilate them? (Ibn al-Qayyim al-Jawziyya 1961, 535; al-Bukhārī 2001, 2:100) [50]

By referring to this prophetic hadith, Ibn al-Qayyim recalls the notion of *fiṭra* as a state of natural perfection which enables humanity to adopt Islam when exposed to the religion (Gobillot 2000, 1–45; Özervali et al. 2013, 37–60; Vasalou 2015, 79–93). A child's upbringing as a Jew or a Christian is paralleled with the mutilation of an animal by its owner. In both cases, the original state of natural perfection is deformed by the person responsible for the creature's care and upbringing. [51]

When the parents of the *dhimmī* child die, the principal barrier to the realisation of the *fiṭra* falls away, meaning that the child becomes “free” to follow Islam. According to this logic, it would be wrong to put a new barrier in the way of the child's self-realisation by placing it in another non-Muslim family. Instead, the child should be placed in the custody of Muslims, who can allow his *fiṭra* to develop as God intended it to. [52]

Ibn al-Qayyim explains this position as follows:

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And the essence of the matter is that he follows his parents, in Islam and in unbelief. If they die then his following of them ends and the original *fiṭra* takes precedence. This is clarified by the teaching that, if all his relatives die and he is brought up by unbelievers who are not members of his family, they are not permitted to render him an unbeliever, for this constitutes a departure from the *fiṭra* upon which God created him, without a legitimate cause (*bi-lā mawjib*). And this is forbidden, for it implies leading a person who was created according to the *fiṭra* of monotheism to unbelief, without his following any of his relatives. And that is most corrupt (*wa-hādhā fi ghāyat al-fasād*). If the parents die, guardianship does not pass to any of the child's other relatives. [...] Rather, responsibility for his custody passes to Muslims, and with this he is ruled to be a Muslim, like the child who is captured without his parents. (Ibn al-Qayyim al-Jawziyya 1961, 494)

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In the example cited here, Ibn al-Qayyim's concern is with the *dhimmi* child whom he regards as being given the chance to obtain salvation by following Islam. The reasoning underlying his explanation is to ensure the wellbeing of the child by enabling his or her *fiṭra* to develop as God intended it. It is also to uphold the divine intention for creation, which is the elevation of Islam over the religions that it has superseded. Although there is little evidence that Ibn al-Qayyim's ruling was implemented in Mamluk Damascus, the reasoning evident in his argument, and a similar interpretation of the prophetic hadith, was used to justify the forcible conversion of Jewish orphans by Zaydi Muslims in twentieth-century Yemen (Eraqi-Klorman 2001).

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The relevance of Islam to the child's *fiṭra* was important for the discussion of the custody and conversion of *dhimmi* orphans, whether orphaned within the Realm of Islam or captured from non-Muslim territory (Adang 2000, 404–7; Bosanquet 2020, 335–69; Vasalou 2015, 77–79). The notion of the *fiṭra* is also relevant to the discussion about the child born from a Christian-Jewish union, despite the fact that conversion to Islam is not mentioned in this context. Although he does not state it explicitly, Ibn al-Qayyim's perception of the child's adherence to the higher religion in the case of conflicting faiths reflects his view that the child's *fiṭra* is oriented towards the hierarchy in which God has ordered the religions. Therefore, the adoption of the higher religion is both a submission to the divine order of creation and a matter of personal welfare for the child. In contrast to the example of the *dhimmi* child's conversion to Islam, the Jewish-Christian child's religious identity is not relevant to the presentation of Islam as the most elevated monotheistic religion that dominates the discussion in *Aḥkām ahl al-dhimma*. However, the topic is relevant to the wider question of how God has ordered the religions in relation to one another and the historical progression towards Islam. As such, even as a theoretical question, the identity of the Jewish-Christian child is relevant to Ibn al-Qayyim's wider argument about the relation of the religions to one another and the role that they and their followers play in a larger divine plan.

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## Conclusion

The legal discourse of Jewish and Christian authorities suggests that marriages between Christians and Jews in eighth/fourteenth-century Damascus were extremely rare, if they took place

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at all. Ibn al-Qayyim's attention to the question of how a Muslim *qāḍī* should respond to non-Muslims who requested a ruling about a Jewish-Christian marriage is unusual. His response that the *qāḍī* should apply the recommendation of the communal authorities is impractical and reflects the fact that the question had a more theoretical than practical relevance for the context in which he was writing. However, the deposition recovered from the Geniza mentioning the incipient relationship between a Jewish woman and a Christian man indicates that the notion of appealing to a Muslim *qāḍī* about a Jewish-Christian union was not entirely nonsensical. It is possible that Ibn al-Qayyim's discussion recalls an earlier example or discussion which attracted his interest because of its relevance for the topic and argument of *Aḥkām ahl al-dhimma*.

The ruling that Ibn al-Qayyim suggests, that the judge follow the recommendation of the authorities of the community, is not so far removed from that indicated by the Geniza deposition, which would have lacked any sanctioning power unless the witnesses were confident that the judge would support their case. This is evidence of a common understanding between Muslim judges, Jewish authorities and possibly Christian authorities as well concerning how a Muslim judge should respond to non-Muslim requests for regulation or the extent of a Muslim judge's knowledge of non-Muslim marriage law. The reader detects an element of predictability, or even trust, in the interaction between the non-Muslim communities and the Muslim legal authorities. There appears to be so little doubt about the decision that the judge will reach that the actual submission of the deposition has become superfluous; the woman's pleas and promises to change indicate that it has already had its desired effect. [58]

The limits that Ibn al-Qayyim sets upon a Muslim jurist's authority in non-Muslim affairs, even in a theoretical sense, do not extend to questions with theological or eschatological relevance. He regards the jurist as obliged to intervene regarding the religious identity of a child born from a Jewish-Christian marriage, and to impose an identity corresponding to the status that the parents' religions hold in a broader hierarchy of faiths. Ibn al-Qayyim uses the question of the child's religious identity to develop his ideas about the relationship between Judaism, Christianity and Islam and to link these, at the end of the discussion, to the political status of Jews and Christians in the contemporary political context. His focus on this aspect, rather than the technical ramifications of the ruling that he suggests, is a further indication that the question held a theoretical rather than a practical relevance for him. [59]

Ibn al-Qayyim's concern for the practical and religious well-being of children is demonstrated in many of his works. In addition to the other works mentioned in this article, *Tuḥfat al-mawḍūd bi-aḥkām al-mawḷūd* is a legal work that Ibn al-Qayyim dedicated specifically to rules about the bearing and raising of children. This work contains numerous references to actual situations or problems with which a Muslim parent could expect to be confronted. However, the discussion about religious identity in *Aḥkām ahl al-dhimma* is more abstract. The child functions as a theoretical construct through which Ibn al-Qayyim explores wider concepts of divine order and human nature in relation to religious difference. Perhaps the fact that his discussion was unlikely to have anything more than a theoretical relevance for his immediate audience made it easier for him to develop these ideas and to relate them to his view of a worldly and heavenly order in which Islam constituted the final and perfect religion. [60]

## Acknowledgment

I would like to thank Barbara Roggema, Hannah Jagusch and the two anonymous peer reviewers of this article for their help and constructive feedback. Remaining errors are my own.

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