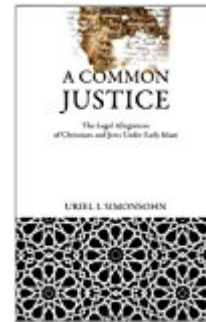


Uriel I. Simonsohn. *A Common Justice: The Legal Allegiances of Christians and Jews under Early Islam*. Philadelphia: University of Pennsylvania Press, 2011. viii + 306 pp. \$79.95 (cloth), ISBN 978-0-8122-4349-9.



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Shopping in the Islamic Judicial Bazaar

In the year 1030 CE, Shelomo ben Yehuda, the Palestinian gaon (medieval Jewish religious authority), wrote a letter lamenting the impossible position he and his fellow leaders were in. As someone charged with upholding Jewish law and faith, the gaon was distressed over the number of Jews who turned to Islamic courts against the halakhic prohibition of bringing internal Jewish matters before Gentile judiciaries. Yet Shelomo recognized that he was relatively powerless in the face of this phenomenon; although he could excommunicate violators, this seemed to have little effect on Jews' actual practice since they continued to bring all manner of cases before Muslim judges. Uriel I. Simonsohn addresses this conundrum in his impressive study, *A Common Justice*. Drawing on such sources as letters and responsa by geonim like Shelomo and by Eastern Christian ecclesiastical authorities, Simonsohn brings his readers into the world of Jewish and Christian elites who struggled to assert their judicial authority in the face of litigants who often preferred Islamic courts to those of their own confession.

This book, based on Simonsohn's dissertation, is a study of how Jewish and Christian religious authorities

reacted to their respective flocks' recourse to Islamic judicial institutions. Simonsohn fruitfully employs the lens of legal pluralism to understand the nature of law in the early Islamic world. Legal pluralism, an approach developed by legal theorists, understands societies as constituted by multiple and often overlapping legal orders. Simonsohn begins by setting the stage through a careful study of law in late antiquity. He argues that the legal pluralism of the late antique world spilled over into early Islamic society, despite the efforts of medieval Muslim scholars to depict a more stable and centralized social order (efforts that are reflected in much modern scholarship on early Islamic law). It is in the context of this "judicial bazaar" that Jewish and Christian leaders attempted to assert their authority over their respective religious communities. In the remainder of the book, Simonsohn explores the nature of Jewish and Christian judicial institutions in the early Islamic world and how each group of religious leaders confronted the challenge to their authority posed by recourse to Islamic courts.

Simonsohn's conclusions do much to advance debates on the place of non-Muslims in early Islamic so-

ciety. In trying to understand how Jews and Christians came to use Islamic judicial institutions so frequently in the first place, he argues that the context of frequent interaction with Muslims was crucial: “extra-confessional social relations on formal and informal levels should be counted as a main factor behind Christian and Jewish recourse to legal institutions outside their confessional organizations” (p. 201). He cautions readers not to assume that we understand the nature of medieval confessional boundaries. Rather than accept older models of communal autonomy, Simonsohn stresses the existence of “overlapping realms of authority” in which confessional institutions existed alongside other judicial and extrajudicial sources of authority (p. 10). Similarly, although being Jewish in the tenth century defined much about one’s experience, religion alone did not dictate the nature of the social order. Simonsohn argues for an approach that balances the importance of religious communities in people’s lives with the ways in which individuals created their own series of interpersonal ties that often transcended confession. In his conclusion, Simonsohn suggests that we understand religious groups as “semi-autonomous communities in which individuals partook based on their cultural, economic, political, *and* religious ties” (p. 214). Readers would have benefited from a more detailed discussion of this promising direction in which to take the field.

Simonsohn’s inclusion of both Jews and Christians makes his study particularly useful. Islamic law puts Jews and Christians in the same category of *ahl al-dhimma*, non-Muslim monotheists under the protection of the Islamic state. However, very few scholars have managed to successfully examine both the major groups of *dhimmis* in a single analytic frame. This is partly because of the methodological and linguistic challenges involved in such an endeavor; Simonsohn’s impressive language skills and his familiarity with both sets of historiography allow him to tackle the two communities with deftness. Methodologically, this approach allows Simonsohn to make broader claims about the experience of non-Muslims under Islamic rule, which is difficult to do in studies that focus on only one group of non-Muslims to the exclusion of others. On the one hand, Simonsohn explores the ways in which the fact of living under Islamic

rule determined similar responses from both Jews and Muslims; he notes, for instance, that both Christian and Jewish authorities were “highly dependent on the goodwill and cooperation of their respective communities for the implementation of their judgments.” On the other hand, Simonsohn notes the ways in which Jews’ and Christians’ experiences differed significantly; whereas ecclesiastical authorities relied on formal hierarchies to assert their leadership, the geonim were “decentralized and diverse” (p. 146). One can hope that more scholars will follow in Simonsohn’s footsteps and include both Jews and Christians in their studies of non-Muslims in the Islamic world.[1]

Simonsohn’s study greatly advances our understanding of how Jewish and Christian religious authorities confronted the challenges of living in a legally pluralist system. Nonetheless, a number of questions raised in his study remain unanswered. In particular, Simonsohn’s focus on the responses of authority figures to Jews’ and Christians’ use of Islamic courts leaves one wanting to know more about non-Muslims’ experiences in those legal institutions. He does not systematically draw on the large corpus of documentary evidence from the Cairo Geniza, which includes legal deeds from both Jewish and Islamic courts that reveal much about when, why, and how Jews moved among the two legal orders. Further study that focuses on a bottom-up approach to the legal history of Jews (and, perhaps, Christians) in medieval Islamic society would contribute to our understanding not only of how the law functioned in the early Islamic world, but also of how non-Muslims and Muslims interacted on a quotidian basis. These observations are not a criticism of Simonsohn’s study, which he wisely limits to one aspect of the question of legal pluralism under early Islam; rather, they are suggestions for ways in which future scholars could build on the strong foundation Simonsohn has laid.

Note

[1]. See also David M. Friedenreich, *Foreigners and Their Food: Constructing Otherness in Jewish, Christian, and Islamic Law* (Berkeley: University of California Press, 2011).

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