

2015

Thoughts on Religious Discrimination from the Cairo Geniza

Nathan B. Oman

William & Mary Law School, nboman@wm.edu

Repository Citation

Oman, Nathan B., "Thoughts on Religious Discrimination from the Cairo Geniza" (2015). *Popular Media*. Paper 356.
http://scholarship.law.wm.edu/popular_media/356

Copyright c 2015 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.
http://scholarship.law.wm.edu/popular_media

CENTER FOR LAW AND RELIGION FORUM

at St. John's University School of Law

Thoughts on Religious Discrimination from the Cairo Geniza

Posted on [April 14, 2015](#) by [Nathan Oman](#) | [Leave a comment](#)

For nearly a thousand years the geniza (manuscripts storage room) of the main Cairo synagogue housed hundreds of pages of manuscripts. These were not records of Talmudic scholars or religious rituals. Rather, they documented the commercial activities of Jewish merchants within the medieval Islamic world. They reveal large scale, long distance trade managed by a tightly knit group of co-religionists. The Cairo Geniza, as it is called, has long been recognized as a treasure trove for economic historians. It also, however, raises very contemporary questions about the relationship between religion, the market, and the law.

The Cairo Geniza merchants were successful in large part because they were Jewish. The bonds of faith and the ability of their religious community to monitor and punish its members generated high levels of trust. Trust, in turn, allowed the Jewish merchants of Cairo to create far more complex economic organizations than would have been possible in the absence of that trust.

The experience of the Cairo Geniza merchants has been repeated many times over. Religious identity has frequently formed the basis for commercial relations by fostering trust and concern between those that might otherwise have been strangers to one another. Examples include the crypto-Jewish “conversos” of early modern Iberia, Quaker merchants in the eighteenth century, and Catholic and Jewish immigrants to the United States in the late nineteenth and early twentieth centuries. Similar networks exist today among groups as diverse as Korean immigrant churches and Mormon lawyers in Washington, D.C.

While the Cairo Geniza manuscripts reveal a commercial world in which religious identity is crucial, modern anti-discrimination law is premised on a vision of the marketplace in which religion is supposed to be irrelevant. The propensity of Cairo Geniza merchants to hire only fellow Jews for managerial positions would certainly have run afoul of Title VII, had it applied in the Abbasid Caliphate.

When we view the entirety of economic activity, the reach of the antidiscrimination norm is actually fairly limited. Employees, for example, are free to discriminate on the basis of religion when choosing employers. Likewise, while banks are limited in their ability to grant loan applications on the basis of religion, nothing prohibits equity investors (or those buying liquid forms of debt such as bonds) from favoring co-religionists. Hence, Cairo Geniza-style commercial networks can continue to function in the interstices of anti-discrimination law.

My point is not to attack anti-discrimination norms per se but only to point out that they embody a particular vision of how religion ought to relate to the market, one in which religious identity cannot be the basis of commercial decisions. However, this vision of religion and the market, if consistently applied, would

rule out of the kind of commercial world revealed by the Cairo Geniza manuscripts.

In an economy where there are other sources of trust, such as formal legal rules or social networks that do not rely on religion, there may be little economic loss from restricting commercial decisions on the basis of religious identity. However, history suggests that one of most successful mechanisms for generating the high levels of trust demanded by large-scale commerce is religion. It also suggests that favoring co-religionists in commercial contexts generally is less about irrational animus or religious bigotry than it is about putting to work the social capital generated by religious networks.

SHARE THIS:[↶ Reblog](#)[★ Like](#)

Be the first to like this.

RELATED

[Ackerman-Lieberman, "The Business of Identity: Jews, Muslims, and Economic Life in Medieval Egypt"](#)
In "Scholarship Roundup"

[Blogging the Religious Legal Theory Conference](#)
In "CLR News"

[Around the Web This Week](#)
In "Around the Web"

This entry was posted in [Nate Oman](#). Bookmark the [permalink](#).

Blog at WordPress.com. The Coraline Theme.