Uriel Simonsohn


Uriel Simonsohn’s A Common Justice explores a phenomenon that, on the face of it, may seem surprising: Jews and Christians living under Islamic rule seeking justice in Islamic courts rather than with the judicial authorities of their own communities. The most direct evidence for this phenomenon comes from the statements of those very authorities decrying the practice, attempting to dissuade or prohibit their coreligionists from seeking justice from outsiders. Simonsohn is generally aware of the limitations of his evidence; we often do not have enough data to know why this was occurring, under what social and political circumstances, or what the motivations of the plaintiffs were, and thus we can only hazard reasonable guesses on all of these scores. However, what we do have is ample testimony of the attitudes of Jewish and Christian communal leaders who condemned the practice. Simonsohn is at his best when he is able to exploit this imbalance to his advantage: thus, what he offers us in A Common Justice is not so much a history of how and why Jews and Christians took their legal cases to qadis and other Muslim officials, but rather a deft analysis of the reasons why Jewish and Christian communal authorities were preoccupied with this practice, the means they adopted to curtail it, and what they achieved through the attempt.

The book consists of six chapters bracketed by a robust theoretical introduction and a synthetic conclusion. Simonsohn is to be commended on the ambitious range of material he tackles here; the story he tells spans the centuries from Rome before Constantine to Fatimid Egypt, and he adduces evidence from literary materials in Syriac, Hebrew, Arabic and Judeo-Arabic, Pahlavi, and other languages. There are some inconsistencies here, which are perhaps unavoidable because of the enormous gaps in the available evidence; Simonsohn can hardly
be faulted if his attempt to draw Sasanian judicial policy into his discussion falters due to the paucity of surviving sources. On the whole, the project is immensely worthwhile, demonstrating the insights to be gained from an investigation of the cultural and religious continuities between Late Antiquity, the early Islamic period, and the high Middle Ages. The breadth of Simonsohn’s research affords him a perspective on macro-level trends that could not be achieved through a more narrowly focused approach.

The Introduction ably sets the stage for the study, focusing in particular on legal pluralism as the theoretical frame (or “conceptual paradigm”) for the work. Simonsohn draws this concept from contemporary legal theorists who argue for the validity and utility of competing legal orders (whether jurisdictions, sources of law, or both), against the radical attempts at legal centralization characteristic of the modern state. Admittedly, much of the existing literature on this concept is prescriptive and normative rather than descriptive and historical. But the interdisciplinarity of Simonsohn’s approach yields interesting dividends: His application of this paradigm to the premodern societies of the Near East and eastern Mediterranean helps us to envision a world in which justice might credibly be pursued in a variety of forums, to the general benefit of both the individual and society. The only losers, it seems, were those who sought to maintain a monopoly on the administration of justice in their communities.

This is a crucial point, because one of the primary insights generated by Simonsohn’s approach is the realization that Jews and Christians in the Dār al-Islām likely perceived the implications of pursuing justice outside of their communities in a radically different way than we typically imagine – namely, not as a betrayal of their faith or transgression against their community, but rather as the most practical course of action given their circumstances. Simonsohn persistently challenges the expectations imposed by our common concept of “communalism” – the idea that Jewish and Christian dhimmīs lived in strictly defined, rigorously policed, hermetically sealed social worlds in isolation from the dominant Muslim “host society.” Scholars have long asserted that the survival of Jewish and Christian subalterns under Islamic rule was dependent on communal discipline, strict maintenance of autonomy, group cohesion, and rigid boundaries. But this approach to the dhimmī experience, actively challenged for a number of years now, ignores certain characteristics of Islamicate society of the Middle Period, particularly the centrality of highly fluid and personalized ties of loyalty, patronage, and obligation that transcended religious identity and narrow communal boundaries.

Simonsohn demonstrates that Jews and Christians construed their identities and place in the world according to overlapping networks of affiliation and