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The Fatimid Iqrār Genre: A Case of Multi-Layered Co-production from the Cairo Geniza



Fatimid Islamic Iqrār (T-S Ar. 38.2, Cambridge University, Taylor-Schechter Collection)



Jewish Iqrār (T-S 10J7.10, Jewish Theological Seminary, Genizah Collection)

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Historians studying Jewish-Muslim relations in the medieval Fatimid empire long assumed that each religious community lived in isolation, engaging with each other only out of necessity. A different picture emerges from the study of sources for social history, particularly those from the Cairo Geniza. Jewish, Muslim, and Christian traders, neighbors, and family members interacted with each other in many contexts and even engaged with each other's religious institutions. Muslim and Jewish communities borrowed religious and legal norms from each other in the construction of their own documents and practices, though religious elites in both communities rarely acknowledged these borrowings.

Shelomo ben Yehuda's Complaint

In 1030 CE, Shelomo ben Yehuda, the Palestinian *gaon,* penned a letter to his fellow Jewish religious authorities in Egypt describing how Jews were turning to Islamic courts, and his powerlessness to reverse this trend. Ben Yehuda was one of the foremost religious authorities responsible for upholding Jewish law, which includes a prohibition against litigating Jewish cases in Gentile judiciaries. But ben Yehuda realized that while he could excommunicate violators, doing so did not seem to alter Jews' actual practice. Jews persisted in using Islamic courts for all sorts of litigation (Simonsohn, 22-33). Ben Yehuda was not alone in his distress, nor was this habit unique to Jewish communities. Exhortations advising believers to avoid the legal institutions of other confessions are found in Christian and Muslim prescriptive texts as well (Simonsohn, 44).

The Study of Jewish-Muslim Relations in Fatimid Egypt

For decades, scholars of Jewish-Muslim interaction in Fatimid Egypt understood exhortations like ben Yehuda's not only as indicative of how jurists *ought* to regulate social life (i.e. prescriptive), but also as representative of how life actually functioned on the ground (i.e. descriptive). In this narrative, the advent of Islam in the Near East brought with it a rigid, centralized hierarchy of Islamic legal institutions that replaced

customary and pre-Islamic imperial legal traditions, most notably Roman, Sasanian, and Arabian. The dominance of Islamic legal institutions would become so absolute that alternate or informal institutions of pre-existing traditions could not exist except at tension with the Islamic empire, and in isolated minority communities. In this view both Jews and Muslims lived in autonomous communities with rigid confessional boundaries, whose interaction was dictated mainly based on their different religious identities (Frenkel and Yagur, 131-142).

The discovery of the "Cairo" Geniza transformed this narrative, allowing historians to move beyond prescriptive sources and to improve their understanding of how legal systems *actually functioned on the ground*. From the eleventh century until the early modern period, Jewish members of the Ben Ezra synagogue in Fustat, Egypt practiced *geniza,* the ritual discarding of texts no longer in use. These documents were stored in a special chamber in the synagogue and inadvertently left undisturbed for centuries. Researchers rediscovered these manuscripts at the end of the nineteenth century and sent them to libraries in Europe and the United States. But not until the middle of the twentieth century would these documents be archived and made accessible to researchers. The Geniza contains almost four hundred thousand individual manuscript pages, of which about fifteen percent are documentary sources—such as court records, acknowledgments, deeds, and chancery records. At least half of this corpus is dated to the Fatimid and Ayyubid periods, of which a significant portion are Jewish and Islamic legal documents. Because Geniza documents are well-preserved, diverse, and detailed, they are an excellent source for studying the legal and economic history of the Near East (Goldberg and Krakowski, 88-93).

Through the study of these sources, scholars have argued that the notion of rigid boundaries separating religious communities does not reflect how Jews and Muslims interacted, especially in legal contexts. Rather, individuals maintained social networks and interpersonal ties outside of their own confessional boundaries for business, political, and social reasons (Simonsohn, 123). Documentary sources depict an image not of autonomous communities but rather of "overlapping realms of authority" in which confessional institutions existed along with judicial and extra-judicial sources of authority (Simonsohn, 145). Though being Jewish or Muslim in the eleventh century defined parts of one's experience, religion was not the only variable to dictate social order. Rather, individuals created networks of interpersonal ties that transcended religious boundaries. Hence religious groups are better understood as "semiautonomous communities in which individuals partook based on their cultural, economic, political, and religious ties" (Goldberg, 155).

The *Iqrār* Corpus in the Cairo Geniza

The practice of Muslims, Christians, and Jews reaching outside of their confessional boundaries to either engage with each other in legal agreements and transactions, or to borrow legal practices, is demonstrated clearly in twelfth century Fatimid Islamic and Jewish court documents found in the Cairo Geniza, specifically in a document genre known as the *iqrār,* or debt acknowledgement, which was part of both Islamic and Jewish legal traditions.

The Fatimids, as a means of consolidating power in their expanding empire, sought to introduce more efficient methods for the lay masses to use to engage with government bureaucratic entities. In this context, bureaucratic elites developed the *iqrār* as a convenient alternative to navigating what often became complicated and lengthy judicial proceedings between disputing debtors and creditors. A debtor (potential defendant) could pre-emptively draw up a document in which they acknowledged that he owed a specific obligation to his creditor (potential plaintiff). Alternatively a creditor

could request that his debtor draw up an *iqrār* as a precondition for providing a loan. Once an *iqrār* transpired between two parties and was notarized in the presence of two court-recognized valid witnesses, the agreement was binding upon the debtor (Weiss, 124-129). Prior to the advent of the *iqrār,* the loan agreement document was a separate transaction from the notary process and hence not validated from the outset by the court. Therefore court officials would have to engage in an investigation to ascertain the authenticity of the loan agreement before allowing litigation. This investigative process often became quite lengthy and was fraught with uncertainty. Combining both processes had the implication that, in the event of a subsequent dispute between parties, the *iqrār* did not require validation from a judge to take legal effect, or in other words, for the creditor to move forward with collecting his debt. An implication of this was that the *iqrār* could be enacted extra-judicially in private contexts without fear of the transaction being legally unrecognized, so long as the relevant court-recognized witnesses were present (Müller).

Jews, Muslims, and Christians in Islamic Courts

Fatimid Islamic court records from the Cairo Geniza demonstrate that, despite repeated exhortations from religious elites of the era, Jewish, Muslim, and Christian neighbors, family members, and tradesmen drew up Islamic *iqrār* agreements among and between each other for all sorts of material exchanges.

One Islamic *iqrār* written in Arabic demonstrates such an exchange. This *iqrār* is dated Shawwāl 400 AH (May 1010 CE). It is written on parchment and is 9.5 centimeters long and 19 centimeters wide. The *iqrār* is located on the *recto,* while the *verso* contains an assortment of Hebrew alphabetical letters. These letters may have constituted writing practice and hence have no relationship to the *iqrār* on the *verso.* The top, left, and bottom edges of the document are torn. The handwriting is straight, large, and clear, with no evidence of patterned spacing or curvature as one might see in chancery documents. The thickness of the pen stroke varies, but the writing is sufficiently uniform such that the body is probably written by one hand. Lines eight and nine however, appear to not only be erased but they also appear to be of handwriting different from what is in the body. Mubārak, the debtor, is a young male Jewish glassmaker. He owes Abū Shatranjī, the creditor and also a Jewish male, five gold *dīnārs*. This amount is to be paid in full at the request of the creditor without installments and without difficulty or dispute. Two witnesses, one of them named Salām ibn Ṣalaḥ, testified that this *iqrār* agreement was conducted. Mubārak testified that he has full knowledge of the contents of this agreement. The agreement was read to him because he was most likely illiterate. This *iqrār* was witnessed in Shawwāl of 400 AH (May 1010 CE).

In the aforementioned *iqrār,* the scribe and witness are Muslim, while the two litigants are Jewish, all occurring under the auspices of a process authorized by an Islamic court. Geniza sources abound with Islamic *iqrārs* being conducted between a Muslim and Jew, a Jew and Christian, two Jewish litigants, and all possible permutations among them. In other words, Jews were not using Islamic courts only in instances of necessity when transacting with a Muslim. Rather, they were doing so even in instances when using a Jewish court would have been just as feasible.

Jewish litigants' usage of Islamic courts was likely a strategic choice. The Jewish *iqrār* process was less rigid and more informal, more akin to a mediation process. This informality was useful in those instances in which flexibility was desired, such as creating non-traditional payment plans for relatively figcaption loans where supervision by a local communal leader proved beneficial or at least sufficient. Jewish creditors loaning larger sums may have considered state-backed Islamic courts to be a more reliable source of authority should the enforcement of a contract become necessary.

Geniza documents support this theory. On average, loan amounts in Jewish *iqrārs* consisted of far less than those found in Islamic *iqrārs,* irrespective of the identity of the litigants.

The Fatimid Jewish *Iqrār*: A Case of Inter-religious Co-production

The high rate at which individuals, despite the exhortations of religious elites, made use of courts outside of their own confessional boundaries demonstrates that the boundaries between religious communities in the Fatimid era were porous. Moreover the structure and formulary of the *iqrār* document was itself a product of a long historical process of co-productive religious exchange, though this fact was scarcely acknowledged in the religious and legal texts of either Judaism or Islam.

A Jewish *iqrār* written in Judeo-Arabic illustrates this co-productive religious exchange. The scribe, well-known from the Cairo Geniza, Abū Saʿīd Helfon ben Menashe whose documents date from 1100 to 1138 CE (Weiss, 5-15). There are several holes and tears, and the script is somewhat faded in several spots, but the document is otherwise legible. The entire text is nineteen lines. The document is written in one block text, and the handwriting straight and clear. The two witness signature lines sit independently at the bottom of the page. Our document is located on the *recto*, with a separate document on the *verso.* Abū Maʿalī ben Yūsuf, known as Tamar, is our debtor. He acknowledges that he owes a debt of seventeen dirhams to Yeshuʿa ben Hananya. This loan was to be paid back in installments of three dirhams per month, or three-fourths of a dirham each week, starting immediately. The debtor releases the creditor from any claims or demands, and the creditor is satisfied with the arranged payment plan. Two witnesses have testified to this agreement, in 1129 CE, one being the scribe, Helfon ben Menashe.

While other document genres pre-date the Fatimid empire, including Jewish loan documents and Islamic testimony documents, the *iqrār* is an inherently new document genre. This however, did not imply that the format and formulary within the *iqrār* was invented from scratch. Rather, formulary from other document genres were often combined and integrated together in the creation of the new genre to perform new functions. Hence, the Islamic and Jewish *iqrārs* consist of a patchworked amalgamation of formulary from a variety of earlier documentary sources quite different from the *iqrār* genre. In the case of this *iqrār,* we find a mixture of Arabic, Hebrew and Aramaic formulary, all written in Hebrew script. The underlying structure bears striking similarity to the Islamic *iqrār*. Arabic formulary borrowed from the Islamic *iqrār* are most noticeable towards the beginning and end of the document. In line three, the scribe's use of the debt acknowledgement formula, that the debt "has in his possession as a debt and obligation" the stated sum, resembles the acknowledgement clause used in Islamic *iqrār* documents indicating formal consent to the agreement. Likewise, the testimony clause in line fourteen in which both witnesses testify that they "wrote and signed this document to serve as a right and a proof" is identical to that of the Islamic *iqrār* with identical placement on the page as well. Additional similarities to the Islamic *iqrār* include the vocabulary used to describe the identity of the parties and the nature of payment (lines 4-6).

In addition to these structural similarities, we see that Hebrew formulary constitute most of the text. In line four, the scribe's use of the binding debt formula, "a binding obligation and a complete obligation" resembles similar clauses in the pre-existing Hebrew loan document genre (a separate genre from the *iqrār*), indicating the enforceable nature of the contract. Likewise in line ten, the release clause, "all that which has transpired between the two of them, from the beginning of time and all that which falls upon him," closely parallels the same Hebrew loan document corpus, indicating that all prior debts have been acknowledged and accounted for.

The *qinyan,* a symbolic act of trade which activates the process and document within which it is performed is frequently used in Hebrew documents of sale. In lines 11-13 we see the *qinyan* clause, "we performed a *qinyan* with him, a complete and weighty *qinyan* with an implement suitable for doing so effective from now on, nullifying all *modaʿin* and conditions and from hand to hand." The word *modaʾin* refers to a document written in advance of a legal act claiming that the legal act is going to be invalid. Words referring to the "immediate" binding nature of the contract, and the debtor's freedom from any prior oath requiring payment in "complete and total absolution" are examples of Aramaic expressions interspersed within the document.

The borrowed usage of Arabic and Hebrew formulary from other pre-existing document genres is unsurprising in a document written in Hebrew script for Jews and developed within an Islamicate milieu, but why does the text use Aramaic?

Some historians argue that during Abbasid and later Fatimid rule, Jewish religious elites in Egypt and Syria-Palestine wrote to each other in Hebrew, but that the language sometimes lacked sufficient vocabulary to translate new documentary terminology with precision. They developed, therefore, a "new" corpus of terminology of their own over time, which derived from imperial Aramaic, based on Achaemenid technical terms preserved in the Hebrew bible (the books of Esther and Ezra). In other words, in order to keep up with evolving practice in the Islamic world, Jewish elites borrowed administrative vocabulary preserved from texts written nearly two millennia before Menashe penned the *iqrār* for Yusuf and Hananya. Twelfth century CE documents written in Hebrew drew on fifth century BCE administrative vocabulary to convey Fatimid, and in some cases Abbasid, terminological equivalents (Rustow, 247-274).

The Fatimid Islamic *Iqrār*: A Case of Intra-religious Sectarian Co-production

Sources like this offer a snapshot of the daily realities of Jews living in an Islamic milieu who utilized Arabic, Hebrew, and Aramaic formulary in a legal document that enabled people to avoid dealing with the complexities of the Fatimid legal system. But the Fatimid Islamic *iqrār* was itself also a co-produced combination of previously existing formulary. The Fatimid Empire was of Shi'i sectarian orientation. In their efforts to take over previously Abbasid lands they engaged in an enormous amount of anti-Sunni Abbasid rhetoric. In Egypt their rise to power was ultimately successful, but they nonetheless ruled over a predominantly Sunni population, and adopted many Sunni norms in attempts to maintain authority over the populace. Egyptian Shi'i Fatimids, despite their anti-Sunni rhetoric, actively integrated religious legal terminology and scribal norms used in Sunni Iraqi Abbasid legal documents and petitions, to such a degree that Fatimid documents looked more Sunni and more Abbasid than did the documents of their pro-Abbasid Egyptian dynastic predecessors (Rustow, 207-244).

The first line of the Fatimid Islamic *iqrār,* for example, always consists of the *basmala,* or invocation "in the name of God." The Fatimids did not append any additional clauses glorifying early Shi'i authorities, clauses common in Shi'i public symbols and texts, leaving the *basmala* as it appears in Sunni texts. In lines two and three, we find very specific physical descriptions of the two litigants. The descriptive vocabulary used in this case came from a defined vocabulary used by Abbasid bureaucrats for the purpose of personal identification. Fatimid bureaucrats appear to have replicated this vocabulary, at least for the purpose of *iqrārs.* Finally, two formulary used in the Fatimid Islamic *iqrār* are similar to formulary found exclusively in sections dealing with the validation of sales and transactions in Sunni Hanafi legal manuals from the Abbasid era. In line three, we find the volition clause, indicating that the debtor was of "sound mind and body, his acts being legal, voluntary, not forced or coerced." In line six, we find the binding debt clause, stating that the loan incurred in this *iqrār* had formally been

acknowledged by both parties as “a binding right, a debt with legal force,” owed to the creditor. Both formulary were commonly used in a variety of transactional contexts in Sunni Abbasid era documents.

The Fatimid *Iqrār* Genre: A Case of Multi-Layered Co-production

Eleventh and twelfth century Muslims and their Christian and Jewish neighbors lived in a legal, religious, and social context in which Jewish, Christian, and Muslim models were used co-productively to create the documents and agreements that bound them to one another. In the case of the Fatimid Islamic *iqrār,* we find an instance of intra-religious sectarian co-production. The Egyptian Fatimids, despite their anti-Sunni Abbasid sectarian rhetoric, actively integrated religious terminology and scribal norms used in Sunni Iraqi Abbasid court documents and legal manuals to such a degree that Fatimid documents often looked more Abbasid than did the documents of their pro-Abbasid Egyptian dynastic predecessors. In the case of the Jewish *iqrār* of the Fatimid era, we find a case of inter-religious co-production. Though the Jewish *iqrār* borrows many formulary from pre-existing Jewish document genres, it also borrows formulary from the Islamic *iqrār* as well. In addition, though Jewish religious elites in Egypt and Syria-Palestine predominantly used Hebrew to write to each other, Hebrew lacked sufficient vocabulary to translate new Fatimid terminology with precision. They would inevitably develop a “new” corpus of terminology borrowed from imperial Aramaic to convey Fatimid terminology in both letters and documents. In the cases of both the Islamic *iqrār* and the Jewish *iqrār*, the Fatimid state played a decisive if indirect role as a third entity in influencing the trajectory of religious borrowing. Ultimately, religious elites from both Muslim and Jewish communities claimed as their own co-produced practices which were a product of entanglements with the religious communities around them.

Further Reading:

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