

The Maghribi Traders: a Reappraisal?

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Abstract

Distinct institutions prevented opportunism in agency relations among the late Medieval Maghribi and Genoese traders. A private-order institution based on multilateral reputation mechanism was particularly important among the Maghribis, while the legal system and bilateral reputation mechanisms were particularly important among the Genoese. Subsequent institutional, organizational, legal, and contractual developments reflect the impact of the associated cultural beliefs. The essay by Edwards and Ogilvie categorically rejects this analysis. Although their essay is rhetorically impressive, its methodology is deficient, its analysis is flawed, and its argument wrong. It is based on a superficial discussion of the secondary sources, an uninformed re-examination of translated documents, and a misrepresentation of my argument and the evidence.

In my earlier work, I examined the institutions that mitigated opportunism in overseas agency relations in two late medieval traders groups, the 11th century Maghribi (Jewish) traders (from the Muslim west) and the 12th century Genoese traders. I argued, based on documents found in the Geniza (a depository of documents in Fustat (Old Cairo)), that among the Maghribi traders most agency relations were established without legally binding contracts and multilateral reputation mechanism was particularly important. The related institution, a ‘coalition,’ deterred opportunism in bilateral agency relations by a credible threat of losing future profitable relations with many other merchants.¹ I contrasted this with the Genoese traders, who relied on legally binding contracts. In Genoa, legal enforcement and bilateral reputation mechanisms were particularly important and complemented each other in preventing opportunism. Initial cultural, social, and political processes led to this institutional bifurcation and were reinforced by the resulting institutions. The associated cultural beliefs, embedded in individuals and transmitted socially, influenced subsequent institutional, organizational, and contractual developments. Subsequent studies have refined and amended various historical and theoretical aspects of the analysis.²

The essay by Edwards and Ogilvie (E&O) challenges the general validity of the analysis. E&O do not argue that it should be modified or appended in some way but that it is categorically incorrect. Their argument rests on three specific claims. First, “not a single empirical example adduced to support the coalition hypothesis shows that it actually existed” (32). Second, institutions governing agency relations among the Maghribis and in Europe were practically the same and culture thus could not have influenced institutional development (3). Finally, the legal system was the “first resort” in enforcing “agency agreements in long-distance trade” (17-18) among the Maghribis.

A good and lively scholarly debate enriches our knowledge. “The jealousy of Scholars shall multiply wisdom” taught Chazal. Sad to say, the current debate is not scholarly. The paper by E&O may be good rhetorically, but it is bad economic history. I will demonstrate in detail that E&O’s analysis is based on a superficial discussion of the literature, an uninformed reading of the documents, and a mis-representation of my writings. More importantly, I would argue that the shortcomings of E&O’s methodology are the central problem in this debate. Their paper is a

¹ Effective contract enforcement institutions link past conduct and future well-being. They work, because they generate the shared beliefs that honesty is the agent’s most rewarding course of action. This implies that the agent can credibly commit himself *ex ante*, prior to being employed, to be honest *ex post*, when he can act opportunistically.

² E.g., González de Lara ‘Secret’ and ‘Public Order,’ Doosselaere ‘Commercial,’ Court ‘Januensis,’ Goldberg ‘Geographies,’ Ackerman-Lieberman, ‘Partnership,’ Harbord, ‘Cooperation,’ Dixit, ‘Lawlessness,’ MacLeod, ‘Reputation.’ My analysis built on previous work such as Ellickson, ‘Order,’ Landa, ‘Theory,’ Kandori, ‘Norms,’ and Shapiro and Stiglitz, ‘Equilibrium’ (although there are significant distinctions between my work and, in particular, Landa’s).

cautionary tale about how, by violating the historical and social scientific methods, E&O can seemingly support any conjecture regardless of the evidence.

To start off, it is instructive to compare the essay above with its 2008 namesake ('Reappraised, 2008').³ In that earlier version, E&O claimed that the *evidence reveals* a widespread reliance on legal enforcement among the Maghribis. My rebuttal refuted their evidence (Greif 'Refuting') and E&O now make a different claim, namely, that the *evidence is biased* and thus obscures the widespread reliance on legal enforcement that prevailed among the Maghribis.⁴ Moreover, while E&O claimed in 2008 that the Maghribis had *bilateral reputation* mechanism just like the Europeans, they now claim that the Europeans had *multilateral reputation* mechanism just like the Maghribis.⁵ Although based on mutually exclusive assertions regarding the historical evidence, the two versions of their paper nevertheless have almost identical abstracts, introductions and conclusions. Different positions regarding the evidence had no impact on their conclusion. While in 2008 E&O declared my analysis wrong because it misrepresents the evidence, E&O now declare it wrong because the historical documents misrepresent reality.

E&O do not claim to have examined any of the primary sources in their original form, their argument is based on their reading of the – by now – extensive secondary literature and available transcriptions. Their discussion might lead some readers to infer that the experts E&O rely on have uniformly refuted the interpretations of Maghribi traders I proposed. The contrary is true. Phillip Ackerman-Lieberman, cited heavily by E&O, has no doubt that "Greif is undoubtedly correct that the reputation mechanism played an important role in preserving an individual's future opportunities in the market place" ('Partnership', 249). Similarly, Jessica Goldberg's 2005 dissertation, upon whom E&O lean heavily, repeatedly confirms my conclusions.⁶ Moreover, Goldberg ('Reputation') responded to the current version of E&O by

³ The three versions of E&O's paper (2008, 2009, 2011) and my rebuttals are available at <http://www.stanford.edu/~avner/greif-debate.html>

⁴ In 2008 E&O declared that, "a more thorough examination of the evidence shows [a] ... widespread ... use of the formal legal system" among the Maghribis ('Reappraised 2008', 37) while now they declare that "the Geniza [can not be used] ... to evaluate the quantitative importance of legal mechanisms" (E&O, 23-4).

⁵ In 2008 E&O declared that the evidence shows "the Maghribis using the formal legal system, supported by informal pressures based on reputation and repeated transactions between the same parties, as in any commercial economy" ('Reappraised 2008', 43) while now they declare that in Europe, "disputes were usually resolved using informal, reputation-based sanctions, in which social networks played an important role, and the legal system was typically employed only as a last resort" (E&O,28).

⁶ "Indeed, the merchant community, and not the legal system, was called upon to take up much of the work of enforcement and redress, particularly in the issues that arose around questions of

writing that “the evidence for the role of reputation in the [Maghribi] business community cannot be so easily dismissed as Edwards and Ogilvie suggest” (4). This is not to say that there is full agreement even among these experts on every point; the evidence allows for different interpretations on many subtle points. But E&O are obviously not interested in subtle points.

My argument was that due to asymmetric information, limited legal verifiability, agents’ mobility, and the large sums involved commercial litigation in this world was expensive and ineffective. Private-order institutions got around formal courts. While E&O (‘Reappraised, 2008’) attempted to refute that argument, the current version accepts it (27). But E&O now misconstrue my position as if I argued that Maghribi traders *never* used courts and thus any indication that they did disproves my analysis.⁷ But that has never been my position. I have noted that the Maghribis had access to “a well-developed [Jewish] legal system that was recognized by the Muslim authorities ... [and they] were allowed to use, and at times indeed used, the Muslim legal system” (‘Exchange’, 275; ‘Institutions’, 61). In some cases even “commercial disputes between merchants and agents were brought before the court.”⁸ The point is not that Maghribis never used the legal system, but that the legal system available to them had limited ability to prevent or respond to opportunism by overseas agents.

E&O create the impression of a significant role for legal enforcement in agency relations among Maghribis by referring to multiple secondary works that rely on the same documentary evidence as if each reveals a distinct evidence. To illustrate, one legal case (K622-3) is referred to 10 times in 8 out of the 14 footnotes supporting reliance on the Jewish court. Three of these footnotes are consecutive and each refers to a different secondary work. In six footnotes it is the only legal case and yet another one refers to it three times.⁹ In fact, the multiple references E&O bring contain evidence of only three such cases in the Jewish court and not a single case in a Muslim court. My systematic analysis of the documents (‘Refuting’) – that E&O allege under-reports legal disputes – found more agency-related legal disputes among Maghribis.

More generally, E&O fundamentally misrepresent my argument and declare me wrong by refuting arguments I did not make. For example, they claim that “in Greif’s portrayal, members of the Maghribi traders’ coalition” constituted a “*monolithic*” and “*cohesive* group” with “*collective*

agency, the preferred form of action and the one ill-covered by the formal legal system” (206).

⁷ “All ... business association [among the Maghribis] were based on a [legal] deed” (‘Reappraised, 2008’, 12) vs. “the mutual service agency predominated” and were established “without written contracts” (E&O, 19). “Greif ... view [is] that Maghribi agency relationships did not rely on legal enforcement ... The evidence contradicts this ... legal conflicts over business associations arose purely among Maghribis” (E&O, 25).

⁸ Greif ‘Enforceability’, 529 (quotation); ‘Reputation’, 863-4, 872-3. I also discussed the legal forms of business associations, and the laws governing agency relations.

⁹ The case is the only evidence in fns.103, 128, 134, 146, 154, 157. Also in 132, 133 (3 times).

relationships” in which exchange was “based on *collective ostracism* within an *exclusive* coalition” (1-3). Their ‘portrayal’ is wrong. E&O refer the reader to Greif (‘Reputation’) for support. But one would not find any support there (or elsewhere). The paper does not even contain any of the terms that E&O alleged to be its essence, that is, ‘*monolithic,*’ ‘*cohesive,*’ ‘*collective relationships,*’ ‘*ostracism,*’ or ‘*exclusive.*’¹⁰ (All emphases are added in this paper.)

The false conjecture that E&O attribute to me is, of course, easy to refute. It is inconsistent with any in-group conflict or out-group agency relations. In fact, my analysis explains why intra-group trust and agency relations predominated, despite the information asymmetry inherent in agency relations, in the absence of a collective decision to shun non-group members or impose intra-group, collectively organized sanctions. I showed why and when this outcome prevails due to the interaction between multilateral reputation and communication and familiarity among group members, although the underlining commitment problems, and thus relations, are inherently bilateral.

It must be made clear from the outset that E&O, while appearing to refute my work on every point, actually accept most of its fundamental premises while appropriating its insights. I demonstrated that multilateral reputation mechanism generated “mutual trust among” traders who “in their letters ... refer to themselves as ‘our people [*ashābunā*], the Maghribi’ traders or ‘our people’ [*ashābunā*]” (Greif ‘Reputation’, 862). In 2008 E&O purported to refute my claim (‘Reappraised 2008’ 12, 23) but now actually accept it. In their words, “reputational pressure based on a wider group of Maghribi traders” (33) supported agency relations “mainly among Jewish merchants who regarded one another as trustworthy ... [the] letters refer to this constellation of trustworthy individuals as the *ashābunā* – ‘our associates’ or ‘colleagues’” (20).

Their interpretations and mine, according to E&O, are “very different” (3) because the ‘*ashābunā,*’ and not the Maghribis (people originating from the Muslim world’s west, particularly Tunisia and Sicily), is the relevant group. The problem is that E&O’s *ashābunā* group is defined tautologically as composed of business associates who trust each other and its membership includes those who established relations with sufficiently many members. The *ashābunā* group, they claim, is open and without clear boundary but E&O nevertheless somehow know that members had agency relations with non-members. E&O are eager to establish that the *ashābunā* was an ill defined group because my analysis qualitatively hold even if the relevant group was

¹⁰ E&O, to give another example, criticize the claim “that by the twelfth century ‘collectivism’ was leading to Maghribi commercial decline and ‘individualism’ to Genoese commercial dominance” (31). Their critique, however, is directed at an argument I did not make. Although E&O refer to Greif (e.g., ‘Beliefs’, 942-3) as making the claim, nothing of the sort can be found there or anywhere else. On the pages they refer to, I argued that “although in the long run the Italians drove the Muslim traders out of the Mediterranean, the historical records do not enable any explicit test of the relative efficiency of the two systems” (‘Beliefs’, 942-3). The Maghribis, I noted, “were forced by the rising naval power of the Italian city-states to abandon this trade” (‘Enforceability’, 877).

based only on religion and not also on a geographical place of origin.¹¹ E&O, however, fail to explain how reputation mechanism works in such an ill defined group.

¹¹ To clarify matters, the term '*ashābunā*' appears more often in the Geniza than 'Maghribis' and it literally means "our companions," "our friends," or "our associates." The term has significant cultural overtone. It relates to the personal bond between the Prophet Muhammad and his first followers. Goitein ('Friendship', 485) argued that the term was used to denote both 'coreligionists' and one's group of business associates. Goldberg ('Geographies') conjectured that the *ashābunā* group was that of the "Arab Jewish traders" (178). E&O do not mention either of these interpretations although they refer to both works in discussing the issue. The core insight of my analysis holds even if the relevant 'reputation group' is that of the Arab Jewish (traders) and I noted that it is sometime difficult to identify whether an Arab Jewish trader is a Maghribi (e.g., Greif 'Reputation', 862). Goldberg relied on merchants' letters that under-reflects other uses of the term *ashābunā* that Goitein recognized such as in referring to non-traders' Jews (e.g., P356, P586) or Karaites (K816, P291 P313). Moreover, agency relations with members of some groups of Arab Jewish traders are rare (e.g., Spaniard Jews; Goitein 'Society', I:21-2). Due to length limitation Geniza documents are referred to here by their numbers in Gil' volumes, thus K622 indicates document 622 in Gil's *Be-malkhut Yishmael* while P203 would identify document 203 in his *Erets-Yisra'el*.