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Full Length Research Paper

Religion and trading network formation: The paradigm of Islam as a substitute to contract law

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This article adapts J. Landa's theoretical proposition of EHMG regarding the effect of social factors on contract breach. It explores its applicability of the Islamic faith on the trading schemes that formatted in the era of the Ottoman Empire. Specifically, it analyzes the specific doctrines of the Islamic faith as expressed through the 'Sharia' and the means by which they facilitated trading –in the absence of contract law - over a vast region of inhomogeneous populations. The proceeding analysis implies the existence of an exclusive trading network in the Ottoman Empire that complied by the Islamic code of ethics and, even though a minority, was occupied by Muslims.

Key words: Trading networks, contract law, Islamic faith, Ottoman Empire.

INTRODUCTION

A socioeconomic overview of world history would underline, among other things, the dominant role of trade. Knossos; the centre of the Minoan civilization enjoyed a high standard of living as a result of trade, supporting the prevailing position that its power was a consequence of trade, enhanced by the geographical position of Crete. In this sense, contract law is central to 'market economics', underlining the context of economic efficiency, and its importance in limiting contract breach; it reduces transaction costs and promotes exchange activity.

Academicaly, it makes sense to analyze the trade process in an environment where the legal framework is absent or poorly developed. The present paper, using the trade reality of the Ottoman Empire between the years of 1800-1890, will attempt to delineate and evaluate the capacity of the Islamic Religion, as the homogenizing agent and a substitute for contract law, towards the establishment of trading networks.

Traders and merchants dealt with contract uncertainty in various ways. For example, they engaged only in cash transactions or they assured contracts' terms by hiring or maintaining an armed force. Regardless of the method used by the traders in the face of contract uncertainty, there are significant costs involved in doing so; the use of cash transactions ignores interest and other relevant to time value costs. Most importantly, if trade were to cease, the gains from comparative advantage or different preferences would not be exploited and the result would be away from Pareto Optimum positions.

Dewey (1962), in regards to Chinese rubber trade, suggested that traders personalized or particularized exchange associations by means of coping with contract uncertainty. Geertz (1978), adapted a notion of 'bazaar economics'; the direct pairing off of buyers and sellers, in an attempt to reduce information costs. Meanwhile Posner (1980), in relation to primitive societies, discusses an 'intimate' relationship between trading partners, one that would resemble friendship characteristics. In coping with deadweight losses, contracting parties have incen-tives, both ex ante and ex post, to deal with opportunism (Barzel, 1997).

In general, economists have focused on reputation as an indication of trading behaviour. However, the reliability of a contracting partner may also be partly based on the contracting partner's affiliations with insider contracting groups that have their own distinct reputations and put an effort to sustain them. This relies on the compliance to the norms by the members of the group through a process of information gathering (Landa, 1981; La Croix, 1989).

Being a dynamic process, trade has evolved in a fashion similar to that of the human civilization. The terms of trade have adjusted to exogenous variables such as trust, proximity and risk. In modern terminology, the above concepts and everything that could alter the probability of a contract breach are summarized in the term 'contract uncertainty'. i

An interesting consequence of the preceding discussion

on contract risk is the evolutionary establishment of homogeneous trading networks. Homogeneity in those networks could be defined in terms of a common code of ethics or practices; the participants in the network could be members of the same family, clan, tribe, ethnicity, or religion. In general, any group with a distinct and well defined code of conduct could be viewed as a potential homogeneous trading network. It should be noted that the existence of such a network reveals an absence or an incomplete legal framework.

The remainder of this paper will unfold as follows; section 2 identifies the existence of a religious based trading network in the Ottoman Empire. Section 3 develops a theory of codes of ethics found in the Islamic religious doctrines, as a functional equivalent to contracts law. Section 4 sets forth the main rational for the establishment of a religious based network, mean-while, section 5 formulates a theory of an efficient arrangement for economizing on information costs in an environment characterized by imperfect information. The concluding section will underlines the trading applicability of religious doctrines and suggests some implications of the theory for further research.

Religion based networks in the Ottoman Empire

Religion, in general, provides a rather complete set of behavioural rules and therefore, constitutes an excellent foundation for the establishment of a homogeneous trading network. Specifically the Islamic religion proves to be very suitable for such a setting, since religious authority and state authority are inseparable. In addition and as an extension, the legal framework accurately reflects the religious doctrines. Hence, religious law and state law are indistinguishable. It should also be underlined that Muslim law being an adaptation of prophet Mohamed's life and since Mohamed was a merchant, Islamic law incorporates a great body of literature that provides codes of conduct in a commercial context.

The Muslim trading network under the scope of this work could be found in the slave trade that took place in the Ottoman Empire. This empire covered North Africa, the Red Sea costal area all the way around and up to the Persian Gulf, while it extended up to the Black Sea; this area included modern-day Greece, Albania, Bulgaria, Serbia and extended down to the Mediterranean Sea on the present coasts of Croatia. The slave network connected the large cities of Rumelia (Greece, Albania and Bulgaria), Anatolia (modern Turkey) and North Africa. Specifically, it linked Tripoli with the Balkans, Cairo, Alexandria and Jidda with the Mid-Eastern world, while the other networks met at Istanbul.

Trade within the empire was highly organized and it reflected an economic structure with religious homogeneity, since the participants in it were of the same religion; Muslim. Despite the fact that the Ottoman

Empire consisted of a highly diverse religious domain, no evidence were found indicating the participation of non-Muslim minorities (e.g. Armenians, Greeks, Jews, etc); slave trade was confined to Muslims. Meanwhile, Tolendano (1982), records the names of major slave traders in the Ottoman territory such as Sayyid Ali-b Harum of Hadayada and Ali Bakrs of the Tripoli-Jidda network.

The Ottoman Empire was ruled by a set of laws known as the 'Seriat'. The 'Seriat' is the Turkish word for the Islamic religious law, or the 'Sharia' as it is known in Arabic. The slave system of the Ottoman Empire was highly regulated based on 'Seriat'. "The Ottoman Empire - the last of the great Muslim states - inherited both the legal and social elements of Islamic slavery". Tolendano (1982), makes apparent that the aspects of slavery followed the Muslim tradition, governed by the principles of 'Seriat'.

So far it has been claimed that the Muslim law governed the slave trade but how can it be assured that the participants in it behaved accordingly. The answer lies within the distinction between a world ruled by a legal framework and a world ruled by anarchy. In a world that is controlled by a written code of conduct, it is expected that its members comply with it -at least the majority of them- since there is the threat of punishment. Even the 'Sultan', which is the

Turkish term for king, had no power against the 'Seriat' and his orders had to be in accordance with it. Viii Disobedience was severely punished in the Ottoman world; the following passage describes the punishment of a 'Pasha', which is a title similar to that of a governor as it is known today. "A disobedient Pasha was a rare exception and then if the kapici basi came with the order for his execution he would perform his prayers and with resignation surrender his neck to the executioner...his behalf."

Additional insight in regards to the Islamic behaviour can be provided if one becomes aware of the fact that all slaves were non- Muslim, since the Islamic law prohibits the enslavement of free-born Muslims. Even though slaves had a monetary value for the traders, they neither dealt Muslim slaves nor did they breed slaves because of the prohibitions found in the 'Seriat'. Thus, free-born Muslims and Zimmis (protected minorities) who did not violate the conditions of their status, the various mechanisms of manumissions and the absence of slave breeding practices limited the slave population.X To further strengthen the position taken here; that Muslim traders' behaviour reflected the Koran, an additional passage is provided to show the fear of punishment that slave traders felt in situations that they may have violated the Muslim law; "He tells of how a trader from out of town arrived in Cordoba and purchased a Christian slave girl whom he assured had been recently acquired from frontier regions. Because she had been recently imported, he paid an exorbitant price, after which he bought

beautiful clothes for her home. However, at this point she revealed - in fluent Arabic - that she was actually a free-born Muslim and threatened to take him before judges unless he did as she instructed." The storey goes on and at the end the trader not only let her keep the new clothes, but he also gave her money just to avoid being sued. The above passage, clearly exhibits that the ÁShariaÁ, was strictly enforced, while the fear of judgment assured compliance.

Thus far, the preceding discussion, complimentary to a vast body of historical records, suggests that trade in the Ottoman Empire complied with the Islamic code of ethics: either out of religiousness and the fear of after-life punishment by God, or out of fear physical punishment by the Ottoman state authorities. A distinguished characteristic of the Muslim nations is that all violations of the religious law are punishable by the state authority, a scenario which runs parallel to the ultimate authority of the Roman Catholic Church in the 'dark ages'. In regards to the holistic authority of Islam on the legal structure of the Ottoman Empire, Lybyer (1966) writes: "The 'Sheriat' was the whole body of Islamic law as accepted by the Ottoman nation. Its long history cannot be detailed here. Based originally on the Koran, supplemented by Mohammed's legal decisions and sayings and by the decisions of the early caliphs and the interpretations of early judges it was, first formulated by Abu Hanifa."XII

Islam and contract law

The former review exposed two stylized facts in regards to 'contract uncertainty' minimization. The first one underlines the behavioural homogeneity as a result of the collective submission to the Sharia; Islam's sacred law. Secondly and most importantly, in most Islamic nations, the religious law coincides with state legislation and therefore, religious misconduct is punishable by federal law.

The cornerstone of the Islamic law is the Koran and sets forth the main theological assures behavioural consistency, manifested in a discrete code of conduct. Two main doctrines that are found in the Koran emphasize on commercial transactions. The first one refers to the prohibition of 'usury', that forbids followers of Islam to benefit themselves at the expense of other Muslims. Secondly, the exclusion of Muslims from any opportunistic or gamble baring activities, also applicable to contractual relationship. XIIII The above Koranic considerations are immense in providing a common ground for trading partners; in which uncertainty and probability of breach are reduced; if the contractual participants are Muslim.

Nevertheless, the preceding doctrines are too general in providing a concrete frame for partnership formation. As the sacred law evolved, a school of Islamic thought; the Hanafites, provided a more meticulous affiliation

outline. The Hanafite texts distinguish the contractual arrangement based on religion. Distinctively, the contract between two Muslims is different then between a Muslim and a non-Muslim. As a result, the rules of trade among the group members (Muslim) are different than those governing trade between non-Muslims. The following reproduction of a Hanafite passage, clearly, justifies the existence of a homogeneous trading group in agreement to the sacred law (Sharia). "An unlimited investment partnership can occur when two people of equal wealth, religion and freedom of action enter into a partnership. It is permissible between two free Muslims, both of age and in possession of their mental faculties. It is not permissible between a free man and a slave, nor between minor and one of age, nor a between a Muslim and a non-believer. It is contracted with the full powers of agency for both partners and with each partner serving as surety for the other."xiv

Landa's (1994), work on EHMG indicates that the members of ethnically homogeneous trading groups acquire the means of reducing trade uncertainty, indiscriminately.

Thus far, the analysis was constricted on fundamental Islamic doctrines pertaining to the facilitation of commerce. In addition to the above doctrines, there is a body of religious rituals that significantly enhance the expectedness of behaviour within the Muslim group. These practices in many ways control every aspect over Muslims' conduct with other fellow Muslims.

The proceeding conversation will attempt to integrate the most important Muslim principals and practices that alter the probability of contract breach. There are several distinct practices that, not only identify the members of the Muslim group, but they ultimately create barriers to the outsiders; securing in this way the group's homogeneity from outside invasion and provide an increased sense of belonging. Eligible group membership is granted, exclusively to practicing Muslims and even though there may exist a great incentive for an outsider to enter the group, the Muslim code of conduct may be completely discouraging for reasons that will be articulated subsequently. Particularly, it is quiet imperative to refer to the five pillars of Islam in an attempt to demonstrate how the Muslim group achieves homogeneity, harmony within the group and protection from non Muslim intruders.

The first pillar of Islam is 'faith'; the belief in the uniqueness of God along with his power to be the ultimate judge of the mankind's actions. Furthermore, the pillar of faith refers to God's ownership of the world; He owns everything one has. Based on this principle, the Muslim group acquires harmony among them (that is, they are children of the same father), a strong sense of belonging, while it implies a fear of punishment for the ones that do not comply. As a result, the first pillar not only serves as a bond enhancer' but also provides a ground for disciplined conduct, since coercion is implied;

'God is the ultimate judge'. It should be noted that punishment, as it is found in Islam, also implies physical punishment.^{XV}

The second pillar of Islam is 'prayer', instructing followers to do five prayers daily: before dawn, afternoon, in the middle of the afternoon, after sunset, and after dark. Before one prays, he/she should to perform a ritual of cleanliness; some pollutions demand a bath, otherwise it is enough to wash the face, hands and feet. The ablution is regulated in detail by the religious custom; water must be sucked into the nostril, the wet finger put in the ears and the hands passed over the hair and if no water can be had then sand or dust can be used. XVI

Thus far, in reference to Landa's (1994) theory on homogeneous networks (EHMG), one can identify factors regarding group identification, sense of belongingness, group co-ordination and barriers to entry. It becomes apparent that if one spends a few hours with a person it would be possible to identify his/her identity as a group member (Muslim), since praying has to be practiced every few hours over the course of the day. While for an outsider to pretend to be an insider it would require perfect knowledge of the rituals and enough patience and time to engage in praying five times a day, if that continued for some time the probability of him or her being identified as an outsider becomes very likely, especially since opportunity costs are attached to praying (e.g. time, effort, etc). As a result, praying not only reduces the information costs of acquiring one's religious identity, but also serves as a significant and economically important barrier. Meanwhile, 'prayer' serves as the means by which group bonds are strengthened. Praying, usually takes place in the mosque where all the believers pray together, practice which creates a different kind of bond: a stronger one. xvii

The third pillar of Islam is fasting, practiced in the following way: it starts at the first daylight and it ends with the sunset. During the in-between hours, the believer abstains from food, drink, and sex. It is practiced during the month of Ramadan and it lasts for thirty days. Similarly, the practice of fasting provides low-cost information about one's identity; one just has to see someone consuming food or drink to verify his exclusion from the Muslim group. Moreover, fasting constitutes a very powerful physical barrier to outsiders from attempting inclusion into the group; staying without food or drink is definitely a challenging practice, especially to the ones that have never been exposed to hunger.

The next Islamic pillar is 'pilgrimage', which obligates devotees to visit Mecca; at least once in a lifetime, given that he/she is of age, sound mind and can afford the expenses. This practice involves the route from Mina to Mecca, which is done in foot, prayers and several other ceremonies. It takes place in the twelfth month (Dhu'l-Hijja) and the rituals are performed from sunrise to sunset for the entire month. One can imagine the millions of Muslims that participate in the pilgrimage, from every

nation, every colour and every race. It becomes obvious that this constitutes a great opportunity for Muslim people to increase their sense of togetherness, create new personal bonds with fellow Muslims from other parts of the world and to reinforce the uniqueness of their group. Consequently, international trade relations can be initiated and an international Muslim based trading group can be conceived. Similarly, the former pillar can serve as a low cost identifier; seeing someone participating in pilgrimage reveals his conformity with Islam, meanwhile, travelling, expenses and time spent in performing the rituals provide a sound economic barrier.

The last and perhaps the most important in the present context- is the pillar of 'Alms' or Legal Alms; the application of a religious tax. From the early days of Islam, Prophet Mohammed preached in favour of charity and later on, this was incorporated in the religious law. Specifically, every Muslim should give five percent of his/her wealth to charity, usually after the month of Ramadan. For example, in earlier times the owner of five to nine camels should pay one sheep to charity.

The requirement of such a practice by the Muslim community has three very important and direct functions. Initially, it strengthens the unity of the homogeneous group. Secondly, it helps the establishment of well defined borders of identity. Lastly, it constitutes a significant monetary barrier to entry. Ultimately, the Alms strengthened group ties through a sense of appreciation within the group; from the ones that receive charity and at the same time, it enhances responsibility towards the group; by the ones who offer charity. This marks a group that is not only homogeneous in terms of beliefs, but a group that exemplifies strong feelings of gratitude and duty among it's members.

In addition to the five pillars of Islam, there is a number of different practices that distinguish Muslims from non Muslims. For example, the veil that Muslim women wear or the long dresses (which cover the all the skin from the neck to the feet) are elements of the religious law, preventing women from exposing any parts of their body that would provoke sexual thoughts to men, a notion originated in the Koran. Another example is the names that Muslim people use, they are taken from historic Muslim figures, (e.g. Mohammad, Ali, Ismail, etc.); someone with a name like Ali would immediately be identified as a Muslim.

Moreover, Islam avoids contract breach by more pragmatic means such as the threat of the physical punishment; this command has influenced Muslim practice through the centuries, providing a rational for political and moral activism. "Government regulations, Islamic law and the activities of the religious police who monitor public behaviour have all been justified as expressions of this moral mission to command the good and prohibit evil." Ultimetely, a Muslim homogeneous group could reflect the high monetary effort by a Muslim government to ensure the religious consistency, it would exhibit the

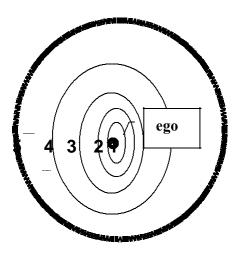


Figure 1. Trade network.

- 1. Family member.
- 2. Extended Family Member.
- 3. Sunni Muslim.
- 4. All Muslims.
- 5. Non-Muslims.

importance of the religious law through the existence of a religious police and lastly, it implies the application of physical punishment upon the transgressors of the Muslim law; the 'Seriat' was enforced in the same way that police enforces the state law in the Western World. This entails the existence of religious courts where rulings were based on all the available doctrines as they were found in Islam. XiX

The proceeding part of the analysis will focus on the dicsiplinatory processes that determines the degree of uniformity and compliance within a given body of ethical and behavioural codes^{XX}.

An economic theorization of the Muslim group

This section will focus on the economics of the homogeneous network and how its existence makes economic sense. Efficiency and Pareto Optimality will be used as the decisive variables and in coordination with Landa's (1994) theory on EHMG. The proceeding analysis will try to isolate the economic rationale underlying the group's dynamics. Initially, an expected cost model will be adapted to demonstrate the efficiency augmentation if trade is facilitated within the borders of the Muslim group.

At this point, it would be constructive to identify the difference in probabilities of breach resulting from the enclosure (or not) in a trading group, using Islam as the homogenizing factor. In Landa's (1994) model, the differrent levels of potential trading groups can be represented by concentric circles, where the first one represents the 'ego'; a typical trader faced with a variety of potential trading partners. Each consecutive circle represents a homogeneous trading group and as they move outwards

they increase in inclusion size. The closer the circle is to the 'ego' the greater the degree of trustworthiness (Figure 1).

The above concentric circles imply, that even though, preference is to trade with family members or extended family members, exploiting comparative advantages demands a greater number of traders in order for the network to be effective. This attribute marks the establishment of a homogeneous network that could includes all Sunni Muslims - a subdivision of the Muslim faith; "The first of the factors distinguishing the Subdivision is religion. All of the Muslim Tamils are Sunnites. After fellow villagers the next choices of merchants for shop assistants are friends, people recommended by friends, fellow Muslims, or cast members. Muslims in particular are eager to hire fellow Muslims. They feel Muslims are less apt to thieve because of their fear that ultimately God will punish them."

The probability of breach increases as the ego trades with the outer circles. For example, the probability of contract breach is lower between Muslim traders than between non-Muslim ones.

Model specification

The following model refers to a typical Muslim trader when he/she is faced with a decision to choose a tra-ding partner.

Let $\left(P^{m}\right)$ be the probability of breach of a Muslim trader,

Let (P^n) be the probability of breach of a non-Muslim trader,

Let (C^s) be the cost of a standard trading package (that is, purchase, travel expenses and maintenance).

Let (BC) be the typical cost of a breach faced by a hypothetical trader.

Then the expected costs of the trader who deals within the group would be:

$$E(C)^{m} = C^{s} + P^{m} BC$$

And the expected cost of trading with a non-Muslim:

$$E(C)^n = C^s + P^n BC$$

Ultimately, it makes sense for a typical Muslim to trade within the Muslim group, since she is faced with a lower expected cost (risk) of doing business.

Furthermore, it would be Pareto Optimal for the Muslim group of size *n* to trade among themselves due to a lower cost and consequently, they will be better off, as long as, the costs of monitoring and coordinating the group are

less than the cost advantage of trading within the group.

If n is the number of members in the group and CC is the cost of maintaining group consistency, uniformity, and coordination. Then $n * P^n * BC$ will be the total expectation of breach costs if trading with outsiders. The former can be summarized in,

$$CC < n(P^n *BC - P^m *BC) \qquad n*C^s + CC + n*P^m *BC < nC^s$$

$$+ n*P^n *BC$$

The above equation, although complicated, states a simple fact. Traders will chose to trade within the group, only if the benefit from doing so exceeds the cost of not doing so.

The following formulation incorporates Landa's (1994) main theorization on EHMG; when homogeneity within a group is achieved through family ties; ethnicity; or religion, the result is a very low cost cohesiveness group. Inevitably, the evolution of a homogeneous trading group, in an uncertain world becomes optimal.

Pareto superiority could be represented in relation to the formulation above and assuming that CC = 0:

$$E(C_m) < \sum_{i=1}^n E(C_n)$$

Pareto Efficiency is accomplished, since the total social cost of the homogeneous group; represented by the sum of expected cost of the n members is less than the corresponding cost expectation for the non-homogeneous group.

The former may also demonstrated in terms of the profit gained from trade with the respective homoge-neous group.

Since $P^m > P^n$ it follows that:

$$n*R-nC^{s}-P^{m}BC=\Pi^{m}>\Pi^{n}=n*R-n*C^{s}-P^{n}BC$$

Where represents profit and R represents revenue. It becomes apparent that profit in the homogeneous group is larger than the profit of the outsiders. Therefore, it can be shown that the members of the Muslim group have an economic advantage when trading amongst themselves, meanwhile; they would try to protect their homogeneity in order to continue benefiting from it.

The economics of information revolve around the cost of information acquisition and the economic quality of 'signalling'. In the context of the present analysis, information will be restricted to the assessment of contract of breach by potential partners. Thus, the breaching probability of the Muslim group -when trading within the group- is inferior to that of trading with non- Muslims. Therefore, economic reasoning requires the identification of potential trading partners as Muslim.

Consequently, 'ego' being a typical Muslim trader and hypothesizing that 'ego' wants to trade with someone;

say person 'A'. How can 'ego' acquire information about 'A's identity; to determine whether he is Muslim or not. For this we will turn to the economics of signalling, if someone is Muslim there must be some signals that will reveal his or her identity. If 'A' is female, her way of dressing, that is, the long robe or the veil; typical of Muslim women, would provide low cost information since it would only take a glance to realize her origination from her outfit. In other words the way that Muslim women dress provides an economic signal of their identity, which in return constitutes a low cost information source.

Moreover, the eating behaviour of Muslim people; fasting in the month of Ramadan or abstaining from pork consumption provides signals for their identity. The specific ritual of praying; due to its frequency and exact performance, constitutes a signal which results in a low cost information procurement for the same reasons as the eating behaviour and dress code. At last, names and verbal salutations serve this function as well. Overall the faith and practice of Islam provides a substantial body of signals that make Muslim followers distinct at a low informational or signalling cost.

Conclusion

Although trade is best facilitated when all comparative advantages are exhausted, in situations of inadequate trade legislation and increased uncertainty, merchants seem to discriminate as to whom they would trade with. That is the result of a high probability of breach involved on forming contracts within a totally heterogeneous group.

In this paper, the Muslim religion served as a trading network facilitator and the suitability of the Muslim doctrines as an alternative to international trade law. The dynamics of the Muslim homogeneous group when analyzed, in parallel with Landas' theory of EHMG proved to be consistent. Despite the absence of empirical evidence showing directly the traders compliance with the Muslim doctrines, the religious nature of the Ottoman Empires' legal system suggests so, unless a state of anarchy was evident, a fact that empirical evidence presented here did not suggest so.

Finally this analysis establishes the economic rationale and the efficiency advantage empowering the formation of a homogeneous trading group based on the Islamic religion.

Further research should be emphasised on the endogeneity of such social factors, as well as towards a comparative analysis between different religions

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¹ By the term 'contract uncertainty' we mean the risk or the probability of breach attached to a typical contract between two or more parties. For further reading, refer to Janet Landa's book, <u>Trust</u>, <u>Ethnicity</u>, <u>and Identity</u> (Ann Arbor: The University of Michigan Press, 1994).

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