ARTICLE

The Relativity of *fides*: Faith Language, Commerce and Interreligious Trust in the Crown of Aragon, *c.* 1240–1350

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Abstract

This article argues that a relational and trust-based understanding of *fides* can explain its use and impact in a variety of secular and religious settings, but particularly between members of different religious communities and especially in commercial contracts. The Latin word *fides* can be translated in a variety of ways, from 'faith', 'trust' and 'trustworthiness', to 'proof' and 'belief'. Within these meanings there are complex religious and legal implications. Most understandings focus on the ways in which the term defines and creates relationships within a community. Contracts from thirteenth- and fourteenth-century Barcelona and Mallorca demonstrate the meaning and significance of the use of the term between merchants and investors from different religious communities. The article provides a new understanding of the place of faith language within the creation of trusting relationships.

On 15 June 1243, Abdella Alfenechi of Lleida and Alfarag of Saragossa walked into the local notarial office in Ciutat de Mallorca (today known as Palma de Mallorca) alongside Bertrandus de Teviza, from Tortosa.[1] The three men wanted to form a partnership in which each invested in a trading venture to Tunis undertaken by Abdella Alfenechi and Alfarag of Saragossa. Identified by the notary as Muslims (*sarraceni*), Abdella and Alfarag contributed £13 to the partnership while Bertrandus (a Christian) contributed £28 minus 5 shillings (s.), of which 212s. were contributed by his brother-in-law Dominicus de Calidus.[2] Dominicus also contributed an additional 70

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[1] Abdella Alfenechi is given a locational label in *Arxiu del Regne de Mallorca* (ARM), *Escribanía de Cartas Reales, Series Civitatis et Partis Foraneæ* (ECR) 342, fo. 160r4 (160r4 refers to the fourth entry on folio 160r).

[2] ARM, ECR 342, fos. 160r4, 210v1. David Abulafia labels Abdella Alfenechi and Alfarag of Saragossa as 'the last two saracens' in Mallorca: Abulafia, *A Mediterranean Emporium: The Catalan Kingdom of Majorca*

masmudinas.[3] This investment was guaranteed by Guillelmus de Sala for Dominicus de Calidus.

In many ways, this partnership was like any other; the men each made a series of complex promises to behave well and to encourage each to trust one another.[4] As such, Abdella Alfenechi and Alfarag of Saragossa made an agreement to act legally and in good faith, as well as to speak the truth: *Nos dicti Abdella et Farag facimus nos legaliter gerere et bonam fidem et legalem inde tibi portare et in omnibus verum dicere sic quod non decipiamus alter alterum* ('We, the said Abdella and Alfarag, commit ourselves to act legally, in good faith and legality towards you, and in all things speak the truth, so that we do not deceive one another').[5] It was then agreed that after Abdella Alfenechi and Alfarag of Saragossa returned to Tortosa from their venture, half of the profit was to be taken by Bertrandus de Teviza on behalf of Dominicus de Calidus.[6] The other half was to be split into thirds, each for Bertrandus de Teviza, Abdella Alfenechi and Alfarag of Saragossa. Bertrandus de Teviza was also to cover all the expenses for the journey, paying sailors and any passage fees. He promised to uphold and fulfil his side of the bargain with reference to law and faith: *promitto attendere et complere in fide legale nostra* ('I promise to attend to and complete [the contract] according to our faith and law').[7]

Historical discussions of the term *fides* normally point to two main strands of meaning, the religious and the secular/legal. The term *fides* can be translated in a variety of ways. It can be 'faith', 'trust', 'trustworthiness', 'honesty', 'faithfulness', 'confidence', 'guarantee', 'proof', 'credence', 'belief', amongst a wide variety of other words.[8] Within these meanings there are religious, legal and relational implications.

(Cambridge, 1994), 123–4. Though they may have been the last free Muslim merchants that scholars are currently aware of in the archival material, Muslims remained a present and important part of Mallorca as enslaved individuals as well as freedmen/women. For more on enslaved individuals in Catalonia and Mallorca in this period, see, for example: M. Carme Coll Font, 'Musulmans captius i lliures a Mallorca, una dècada després de la conquesta cristiana', *Memòries de la Reial Acadèmia Mallorquina d'Estudis Genealògics, Heràldics i Històrics*, 25 (2015), 7–37; Rebecca Lynn Winer, 'Conscripting the Breast: Lactation, Slavery and Salvation in the Realms of Aragon and Kingdom of Majorca, *c.* 1250–1300', *Journal of Medieval History*, 34 (2008), 164–84; Rebecca Lynn Winer, *Women, Wealth, and Community in Perpignan, c. 1250-1300: Christians, Jews, and Enslaved Muslims in a Medieval Mediterranean Town* (Aldershot, 2006); A. Ferrer Abárzuza, 'Contracts of *talla*, from Captivity to Precarious Labour in the Thirteenth and Fourteenth Centuries', *Journal of Medieval Iberian Studies*, 13 (2021), 331–49.

[3] On 'masmudinas', see Anna M. Balaguer, *Història de la moneda dels comtats Catalans* (Barcelona, 1999), 100. On currencies used in the Crown of Aragon, see Michael Schraer, *A Stake in the Ground: Jews and Property Investment in the Medieval Crown of Aragon* (Leiden, 2019), xii. Note that Abulafia and Carme Coll Font disagree on the correct transcription of the name 'Dominicus de Calidus'. Abulafia instead writes 'Amicus de Caldis'. I have chosen to use 'Dominicus de Calidus', after close examination of the original two contracts. Cf. Abualfia, *A Mediterranean Emporium*, 123–4; M. Carme Coll Font, 'Llibre Manual de Pere Romeu, notari públic de Mallorca (1240): estudi del document' (Ph.D. thesis, Universitat de les Illes Balears, 2013), 1147 (doc. 1601).

[4] For more on the intense trust language used in partnership agreements, see Annabel Laura Hancock, 'Trust in Trade in Barcelona and Mallorca, 1240-1350' (D.Phil. thesis, University of Oxford, 2025).

[5] ARM, ECR 342, fo. 210v1; Coll Font, 'Llibre Manual de Pere Romeu'.

[6] Though the contract was written by a Mallorcan notary, the two men agreed to 'return' ('reversi') to Tortosa, the town in which Bertrandus is recorded to have resided.

[7] ARM, ECR 342, fo. 210v1.

[8] Teresa Morgan, *Roman Faith and Christian Faith: Pistis and Fides in the Early Roman Empire and Early Churches* (Oxford, 2015), 7.

In this article, I will argue that in commercial contracts the word *fides* and related terms took on an entangled meaning such that the religious and the secular functioned as one. This allowed the term to *do* trust work, building trust between individuals from different religious communities.[9] Currently, when historical scholars use and explore the term *fides* there is normally a presumption that the word is working *within* a community: in secular seignorial understandings, the term refers to loyalty to the community, or community hierarchy; in Roman legal understandings, individuals had to be loyal to other citizens, also within the same community; and in religious understandings, the term itself created a community of people of one faith, Christians, and spoke to the relationship that individuals had either to each other or to God. However, none of these understandings enable us to explain how the term functioned in interreligious relationships, creating trust between people of *different* communities. Indeed, on the basis of charters from twelfth- and early-thirteenth-century Yorkshire, Paul Hyams has argued that English Jews were unable to participate in the culture of 'giving faith' such that they faced legal and social incapacities in business activities with their Christian neighbours.[10] Although drawing on materials separated by both time and space, his work presents a stark contrast to the situation in the Crown of Aragon.

Here I argue that *fides* took on a relational meaning, calling upon the particular community of the merchant to reinforce their reputation as trustworthy, even when that community was not shared by the other party to the contract. By placing an individual and their trustworthiness in relation to their own community, the word functioned to create and maintain trusting relationships both between co-religionists and between members of different religious groups. The term was used to create and maintain interpersonal trust; merchants used their social relationships as evidence of goodwill and provided a road to social (and religious) reputational punishment should they fail to uphold their obligations. As such, I argue that faith language actively affected the relationships, modifying the mindset and expectations of the parties involved in contracts. I do not seek to argue that this understanding of *fides* supersedes existing understandings of the term but rather to show that the term was used in interesting ways in this particular socio-cultural context, combining a variety of previous understandings.

In the thirteenth and fourteenth centuries, Mallorca and Barcelona were important centres of trade with mercantile connections across the Mediterranean. Barcelona was the centre of political and economic power in the Crown of Aragon while Mallorca was an important way point for merchants. Both were home to a majority Christian and minority Jewish population. Yom Tov Assis highlights that Jews in Catalonia were considered to be property of the king, with royal protection, and were encouraged to emigrate to newly conquered possessions, such as Mallorca, as a part of the Crown's overseas policy to control new lands.[11] Muslim communities were also present in the Crown of Aragon. The Christian conquests of Barcelona (801) and of Mallorca

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[9] I am using the term 'trust work' as an original phrase explored in Hancock, 'Trust in Trade'.

[10] Paul Hyams, 'Faith, Fealty and Jewish "Infideles" in Twelfth-Century England', in *Christians and Jews in Angevin England: The York Massacre of 1190, Narratives and Contexts*, ed. Sarah Rees Jones and Sethina Watson (York, 2013), 125–47.

[11] Yom Tov Assis, *The Golden Age of Aragonese Jewry: Community and Society in the Crown of Aragon, 1213–1327* (Oxford, 2008), 9–12. See also Anna Sapir Abulafia, *Christian–Jewish Relations, 1000–1300: Jews in the Service of Medieval Christendom* (2015), 112–13, 118–19; Jonathan Ray, *The Sephardic Frontier: The Reconquista and the*

(1229–32) meant the removal of the majority of the Muslim population. In Mallorca, most defeated Muslims were captured and apportioned to the conquerors as spoils of war though a small minority remained in south Catalonia, Aragon and Mallorca.[12]

Part of the remaining Muslim population, Abdella Alfenechi and Alfarag of Saragossa were not alone in making a promise 'on good faith'. Though not appearing in every contract, promising good faith was nothing unusual. Out of the 1,432 contracts I have examined in detail from Barcelona and Mallorca written between 1240 and 1350, 161 used the term *fides*.[13] These contracts were identified predominantly from examination of eighty-six notarial registers in Barcelona and Mallorca, which I then transcribed into a database.[14] In order to create a comparable set of sources, contracts were considered relevant and recorded in the data set if the included reference to long-distance trade, through inclusion of words relating to a journey, a ship or a distant location. This meant that all contracts in the collection were written by notaries for merchants and investors, creating socio-economic relationships in the context of high risk.[15] Though most contracts did not include the term *fides*, an important minority did. For example, on 4 August 1265, Jacobus Ferrandi invested £27 3.5s. plus an additional £26 in the form of two decorative garments for a person and a horse (*duobus guarnimentis completis de corpore et equo*) in a venture undertaken by Raimundus Bucharii. Bucharii was to travel to the Barbary coast and promised to sell the invested money and goods 'in good faith' (*promitto vendere bona fide*).[16] Similarly, on 15 July 1316, Petrus Just appointed Jacobus de Porio and Petrus de Plano as his agents. He agreed to

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Jewish Community in Medieval Iberia (Ithaca, 2006), 25–6, 80–81; David Nirenberg, *Communities of Violence: Persecution of Minorities in the Middle Ages* (Princeton, 1996), 21, 26–8, 31–2.

[12]Antoni Riera, 'The Feudal Partitions of Mallorca and their Immediate Consequences (1230–1245)', *Catalan Historical Review*, 10 (2017), 9–10; see also on the emigration of Muslims from Catalonia, Brian A. Catlos, *The Victors and the Vanquished: Christians and Muslims of Catalonia and Aragon, 1050–1300* (Cambridge, 2004), 100–6; Flocel Sabaté, 'Identities in Contact in the Mediterranean', in *The Crown of Aragon: A Singular Mediterranean Empire*, ed. Flocel Sabaté (Leiden, 2017), 451; David Abulafia, 'From Privilege to Persecution: Crown, Church and Synagogue in the City of Majorca, 1229–1343', in *Church and City 1000–1500: Essays in Honour of Christopher Brooke*, ed. David Abulafia, Michael J. Franklin and Miri Rubin (Cambridge, 1992), 114–15; Abulafia, *A Mediterranean Emporium*, 5–8.

[13]See Hancock, 'Trust in Trade', 149–50. The number given here is references to *fides* as distinct from a promise to 'be faithful' in the form 'esse fidelis'. On promises to be faithful, see *ibid.*, 146. It is worth noting that while relationships between the Christian and non-Christian communities in the Crown of Aragon were far from stable, usage of the term *fides* and engagement with notarial culture to create relationships of trust across religious communities continued through to 1350, where this study ends, leaving the impacts of the Black Death to further work. On violence between religious communities in the Crown of Aragon, see Nirenberg, *Communities of Violence*.

[14]Twenty-three registers were consulted in *Arxiu Capitular de la Catedral de Mallorca* (ACM), 36 in *ARM*, and 23 in *Arxiu Històric de Protocols de Barcelona* (AHPB). 136 contracts transcribed by Josep Maria Madurell i Marimon and Arcadi Garcia i Sanz, mainly from *Arxiu Capitular de la Catedral de Barcelona* and AHPB, were also included: Josep Maria Madurell i Marimon and Arcadi Garcia i Sanz, *Comandas Comerciales Barcelonesas de la Baja Edad Media* (Colegio Notarial de Barcelona, 1973); Arcadi Garcia i Sanz and Josep Maria Madurell i Marimon, *Societats mercantils medievals a Barcelona* (2 vols., Barcelona, 1986). For a list of all notarial registers consulted in the creation of the database, see Hancock, 'Trust in Trade', 317–20.

[15]Contracts dealing with local trade are therefore not under consideration in the current article. The use of *fides* and related language in this type of lower-risk contract would be a fruitful basis for future investigation.

[16]Madurell i Marimon and Garcia i Sanz, *Comandas comerciales*, doc. 18.

send his ship to Aigues-Mortes or Ardes (sic: Arles) to pick up merchandise for the agents and then take it to Cyprus. He promised that he would fulfil the agreement 'in good faith and without any deceit or fraud' (*promito ... accedere et complere vobis ... bona fide et sine aliquo dolo et fraude*).[17] Both contracts were between Christian male parties and demonstrate the most common uses of the term *fides.*

Though the trust language and specifically faith language used by Abdella Alfenechi, Alfarag of Saragossa and Bertrandus de Teviza followed the same patterns as those contracts between Christians, it was certainly not a given that commercial contracts would use *fides* language; most agreements did not include references to faith and promises, and relationships of trust could be made without reference to faith.[18] For example, in October 1247, Jacobus Aragonaris received investment from Arnaldus Gerrad in his voyage from Mallorca to Tortosa. Jacobus promised Arnaldus that he would use the money to buy goods in Tortosa and then return with profit to Mallorca. The agreement included no words related to *fides.*[19] Faith language could also appear in different forms. For example, on 25 March 1340, Stephanus des Frexe and his son Johannes received £22 16s. from Petrus Stephanus. This was to be combined into a common fund and taken to Constantinople for trading purposes. Johannes des Frexe alone promised to be faithful and lawful, rendering a true and full account of the business to the investor: *promito ego dictis Johanne esse vobis fidelis et legalis et inde varum et iustum compotum reddam vobis* ('I, Johannes, promise to be faithful and lawful to you and will render a true and proper account to you').[20] Indeed, I have previously demonstrated that contracts written by notaries for merchants in Barcelona and Mallorca were far from standardised and copied texts but instead full of variations and reflect a series of conscious and unconscious choices to build and maintain relationships of trust which were particular to each individual situation.[21]

The varied and situational creation of trusting relationships is visible when trust is understood in a multifaced manner. Ian Forrest and Anne Haour take trust to be constantly negotiated through physical and linguistic performances. Seen as cultural and economic, a human decision and emotion, trust does not arise naturally from culture but is created. It requires learning and negotiation, rather than possession of an

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[17]AHPB, Pere de Torre 6/2, fos. 141r2–141v; also, AHPB, Jaume Ferrer 19/6, fos. 27v–29r.

[18]On trust language, see Justyna Wubs-Mrozewicz, 'The Concept of Language of Trust and Trustworthiness: (Why) History Matters', *Journal of Trust Research*, 10 (2020), 91–107.

[19]ARM, ECR 343, fo. 218r3: 'J Aragonaris reco[gnosco] me habeo et reco[gnosco] in comanda a te A // Gerrard c solidos malguerenses in hac viatico quod de praesente fa[cto] apud Dertusam in ligno // P Dalfar dertusa et promitto ibi emare in fusta et reditu // ipsa tuo apud maiori et lucro tuo capi[tuo] habebam quarta denari in lucro // tui iii denaris et hoc comanda stet et redeat ad voluntate dei et ad // meum redegum et usum maris in omni. // Testes A Pelgri et Bn G de Gironda.' ('I, J. Aragonaris, acknowledge that I have and recognise holding in *comanda* from you, A. Gerrard, 100 Melgarense shillings for this voyage, which is presently undertaken to Tortosa on the ship of P. Dalfar of Tortosa. I promise to invest it there in wood and to return it, along with its profit, to you in Mallorca. From the profit, I am to retain one quarter and you [the other] three quarters. This *comanda* is to stand and be completed at the will of God and according to my risk and according to the customs of the sea at all times. Witnesses: A. Pelgri and B. G. de Gironda').

[20]ACM, *Protocols Notaries,* PRT-14564, fos. 2r1–2v. Note that the term *legalis* can also be translated in a variety of ways, including 'lawful', 'legal', 'loyal' and 'just'.

[21]Hancock, 'Trust in Trade'.

essential similarity, and can take a lengthy time to build up though can be lost quickly.[22] This understanding of trust allows us to examine trust in a multifaceted way considering how institutions and individuals can foster and maintain trust. Parties to contracts chose to collaborate with the notary to create agreements which suited each situation. The variety of approaches to trust in the contracts indicates that trust was never a given, but required constant thought and effort.[23] Trust needed *work* each time that it was required. Merchants did 'trust work' by employing trust language as well as making individual decisions and actions to construct relationships as required in each moment.

The use of faith language (language related to *fides*) was one such choice which built trust. Most partnership agreements were between co-religionists. In contrast, while they shared social connections and perhaps all lived in Tortosa (though this cannot be confirmed), Abdella Alfenechi, Alfarag of Saragossa and Bertrandus de Teviza did not share a religious community. Nevertheless, they chose to use the language of faith in the creation of their agreement. What, therefore, did it mean for Abdella Alfenechi, Alfarag of Saragossa and Bertrandus de Teviza to make obligations to each other *on faith*?

This article will first explore the various secular, legal and religious concepts which were tied to the term *fides* and then turn to the way that *fides* was used in discourses related to notaries. I will argue that all these understandings can be seen as relational in nature. We will then turn to *fides* in commercial documents from Mallorca and Barcelona in the thirteenth and fourteenth centuries to show how, by focusing on the relational side of the concept, the term functioned to build and maintain trust in relationships between individuals from differing religious communities.

Fides creating community: religious, legal and seignorial meanings

The word *fides* can be first identified as a term in Roman law, meaning equity. Reinhard Zimmermann and Simon Whittaker note that the notion of 'good faith' (*bona fides*) had its origin in Roman law, gaining influence in relation to *iudicia stricti iuris*, claims which were to be adjudicated according to strict law. A defendant might request the insertion of the notion of 'good faith' into the procedural formula which defined the issue to be tried by the judge. It was worded in the alternative and known as the *exceptio doli*: 'if in this matter nothing has been done, or is being done, in bad faith by the plaintiff'. The addition sought to create a just solution, locating *dolus* (deceit) not in personal misconduct, but instead in an inequity or injustice that would come from the action being allowed to succeed. The phrase gave the judge 'an equitable discretion to decide the case before him in accordance with what appeared to be fair and reasonable'.[24]

Fides as found in Roman law, then, allowed for errors and duress to be taken into account in determining a case and whether an *actio empti* (an action employed on behalf of a buyer to compel a seller to perform his obligations or pay compensation)

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[22]Ian Forrest and Anne Haour, 'Trust in Long-Distance Relationships, 1000–1600ce', *Past & Present*, 238, suppl. 13 (2018), 190–213.

[23]Hancock, 'Trust in Trade'.

[24]Reinhard Zimmermann and Simon Whittaker, 'Good Faith in European Contract Law: Surveying the Legal Landscape', in *Good Faith in European Contract Law*, ed. Simon Whittaker and Reinhard Zimmermann (Cambridge, 2000), 16–17; see also Richard Heinze, 'Fides', *Hermes*, 64 (1928), 161–2.

or *venditi* (an action employed on behalf of a seller, to compel a buyer to pay the price, or perform any special obligations included in a contract of sale) could be granted.[25] Ian Forrest points out that the term was used to refer to the need to honour the spirit as well as the letter of obligations and that good faith was a reasonable defence if one acted upon facts which were later revealed to be false.[26] Judges were now not having to determine whether a claim asserted under the procedural *formula* did or did not exist. Instead, the *bona fide* clause meant that judges could consider the relationship of the parties in a variety of ways, including their conduct.[27] In this thinking, *bona fides* stood in contrast to *ius strictum* (strict law), as old and formalised actions were softened with reference to equitable considerations with the goal of achieving just results.[28] This was particularly important, Whittaker and Zimmermann emphasise, in relations between merchants. Good faith or *aequitas* (equity) law allowed for a form of flexibility, convenience and informality required by an international community of merchants.[29]

Roman legal definitions of *bona fides* related to the behaviour each person owed another and their community. Martin Josef Schermaier points out that *bona fides* in Roman law did not lead to uncertainty 'due to a concrete and uniform understanding of what accorded with both *fides* and *bona fides*'. This was rooted in Roman social ethics, linked to duties of fidelity and faithfulness for both citizens and non-citizens. *Fides* was understood as meaning 'remaining faithful to one's word'.[30] Schermaier points out that 'faithfulness to one's word is a precondition of any legal intercourse'. In contrast, *bona fides* is does not require performance itself but requires parties to 'act honestly', influencing 'the way performance is made'. He notes that the move from these concepts of *fides* to *bona fides* is unclear: how ideas of the fidelity one owed to others came to shape legal precedents.[31] Importantly, however, *bona fides* was seen to bind Roman citizens and foreigners equally, speaking to the ethical values of society and a standard of behaviour.[32] Examining usage of the term separate from law in the Roman period, Richard Heinze emphasised the connection between the term *fides* and concepts such as guarantee, credibility and trustworthiness looking to the works of Cicero and Plautus. He emphasises the relationality of the term, as one would only be considered trustworthy through recognition from another person.[33] The term, he argues, was particularly tied to concepts of reputation and moral standing in early usage, arguing that a Roman citizen felt morally bound to fellow citizens in a wide variety of ways by his *fides*, while also secured by the *fides* of others and also of his gods.[34]

Though medieval jurists inherited the Roman legal concept of *bona fides*, they did not define 'good faith' or 'equity' in order to determine how parties should act but

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[25]Whittaker and Zimmermann, 'Good Faith in European Contract Law', 17.

[26]Ian Forrest, *Trustworthy Men: How Inequality and Faith Made the Medieval Church* (Princeton, 2020), 34.

[27]Martin Josef Schermaier, '*Bona fides* in Roman Contract Law', in *Good Faith in European Contract Law*, ed. Whittaker and Zimmermann, 84.

[28]Whittaker and Zimmermann, 'Good Faith in European Contract Law', 17; Schermaier, '*Bona fides* in Roman Contract Law', 75–6.

[29]Whittaker and Zimmermann, 'Good Faith in European Contract Law', 17–18; see also James Gordley, *The Philosophical Origins of Modern Contract Doctrine* (Oxford, 2011), 74.

[30]Schermaier, '*Bona fides* in Roman Contract Law', 77–8.

[31]*Ibid.*

[32]*Ibid.*, 77, 82.

[33]Heinze, 'Fides', 140–3, 150, 159.

[34]*Ibid.*, 165.

instead described how they should act through classification of Roman legal texts. This meant that they remained 'amorphous concepts'; their use of the term was not clearly explained and arguments about *bona fides* and the enforceability of contracts according to *ius gentium* sometimes conflicted with Roman law.[35] Medieval jurists before Baldus de Ubaldis (1327–1400) used the terms to describe three types of conduct expected of the contracting parties: firstly, that each should keep his word; secondly, that neither should take advantage of the other through deception, misleading or driving 'too harsh a bargain'; thirdly, that each should abide by the obligations that an honest person would recognise even if they were not expressly undertaken.[36] As such, the jurists concluded that agreements must be kept as a matter of faith, equity and the *ius gentium*.[37] Baldus de Ubaldis, whom James Gordley labels as the only medieval jurist able to give 'a relatively coherent account' of what 'good faith' and 'equity' meant, went a step further. Strongly influenced by Aristotle (whose works became available in western Europe in the late twelfth and early thirteenth centuries) and Thomas Aquinas, Baldus identified equity (or good faith) with the principle that no one should be enriched at the expense of another and that a contract made without a *causa* (reason) was unenforceable.[38] Notably, the canon lawyers did identify 'good faith' with a good conscience as well as with the religious sense of 'good faith'.[39]

Fides was also used in the creation of a relationship between vassal and lord. It was common for vassals to swear to be faithful/loyal (*fideles*) to lords and kings, creating power inequalities and ideas of obedience.[40] Susan Reynolds notes that the process of vassalage took place through the ritual of commendation, later known as homage. This involved the actions of kneeling, placing one's hands in the lord's hands and declaring oneself to be a 'man' of the lord. This was followed by a kiss, symbolising accord and friendship. After doing homage, the vassal took an 'oath of fealty or fidelity', though the oath could also be taken by subordinates who were not vassals. Despite the oath of fealty and the ritual of commendation being separate actions, Reynolds emphasises that the obligations which were created by the process of vassalage related to being 'faithful'; the vassal 'owed fidelity or fealty' nonetheless. As such, both vassals and subjects who were not vassals were required to be faithful and might be described in the Carolingian period as *fideles*.[41] This was a particularly asymmetric relationship, as the inferior party 'put his faith into the hands' of the superior party.[42] *Fideles* could also refer to faithful service provided by individuals chosen and appointed to a specific role of trust within a community; Wendy Davies finds the word referring to individuals considered to be of a good reputation

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[36]Gordley, 'Good Faith in Contract Law', 94, 103, 105.

[37]*Ibid.*, 96.

[38]*Ibid.*, 108–14.

[39]*Ibid.*, 94.

[40]Forrest, *Trustworthy Men*, 48, 101.

[41]Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford, 1994), 18–20.

[42]Forrest, *Trustworthy Men*, 48.

who were trusted to give evidence in court in later ninth- and tenth-century north-ern Iberia (Asturias-León, Pamplona and Navarre). These individuals, she notes, were considered to have the trust of the community.[43] These trusted men are perhaps partic-ularly comparable to the trusted individuals identified by Forrest as jurors, informants and witnesses who were called upon to represent their parishes when English bish-ops required local knowledge or reliable collaborators in the thirteenth to fifteenth centuries.[44]

Beyond legal and seignorial meanings, the term *fides* was also understood to mean religious 'faith'. In theological discussions, faith could mean two particularly different things. As Forrest notes, the faith *by which* we believe (*fides qua*) dealt with believing something unseen and was greatly debated by scholastic theologians because fallen humanity had lost the capacity for direct sight/understanding of God.[45] Faith *in which* Christians were supposed to believe (*fides quae*) was the focus of pastoral theology, embodied in the 'articles of the faith' contained in the Creed.[46] Peter Biller has demon-strated that in religious contexts in the twelfth and thirteenth centuries, the words *fides, lex* and *secta* were most analogous to our modern sense of 'religion', referring to a set of beliefs, cultural practices, institutions and shared identity. *Religio*, on the other hand, had a different meaning before the Reformation, meaning something closer to worship or devotion.[47] The term *fides* was therefore related to the creation of a group of believers or a religious community. Davies, for example, identifies the use of *fides* in charters from later ninth- and tenth-century northern Iberia as specifically referring to the Christian faith or the faith of the Christians.[48]

Indeed, Teresa Morgan has shown that Greek *pistis* and Latin *fides* developed in meaning in Graeco-Roman and early Christian writings to create communities through an individual's relationship with God.[49] She considers how the terms operated socially, alongside the relationship with God. Rather than understanding *pistis* and *fides* to func-tion either as a cognitive process, an action, a relationship or an aspect of community, Morgan emphasises that multiple processes and meanings can coexist.[50] Rather than a body of beliefs or a function of the heart of mind, the terms *pistis* and *fides* represented a relationship which created the Christian community.[51]

As such, Morgan has shown that *pistis* and *fides* were essentially relational, affecting the formation of personal relationships both between individuals and with institutions such as the church.[52] 'Faithfulness' came to relate to one's relationship to God and to the wider Christian community, speaking to the way in which individuals belonged to

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[43]Wendy Davies, 'Fides in Northern Iberian Texts of the Ninth and Tenth Centuries', in *Confiance, bonne foi, fidélité: la notion de fides dans la vie des sociétés médiévales (VIe–XVe siècles)*, ed. Wojciech Fałkowski and Yves Sassier (Paris, 2018), 173.

[44]Forrest, *Trustworthy Men*.

[45]*Ibid.*, 18–21.

[46]*Ibid.*, 21.

[47]Peter Biller, 'Words and the Medieval Notion of "Religion"', *Journal of Ecclesiastical History*, 36 (1985), 351–69; Forrest on this issue: *Trustworthy Men*, 394.

[48]Davies, 'Fides in Northern Iberian Texts', 170–1.

[49]Morgan, *Roman Faith and Christian Faith*, 14.

[50]*Ibid.*, 19.

[51]Forrest, *Trustworthy Men*, 30; Morgan, *Roman Faith and Christian Faith*, 14.

[52]Morgan, *Roman Faith and Christian Faith*.

a religious community based on shared practices.[53] *Fides* spoke to the feeling of belonging to a 'community of the faith' as well as being in good faith with one's neighbours.[54] *Fides* thus came to mean the relationship Christians had with one another, the identity they might share as a group and their relationship with God.[55]

Fides was about the creation of communities but also about the unknown and uncertain. Forrest highlights that relationships both between humans and with God involved the concept of belief as an attitude towards an unknown being or future, or trust in something uncertain.[56] Even faith in God was relational because the relationships one had with other humans formed part of the discussion. For the 'ordinary Christian', Forrest argues, the lexicon of faith was used to form relationships, on both individual and collective bases which fed into how they 'conceived of their faith in God'.[57] Forrest turns to Augustine here, who demonstrated that much that we take on trust is invisible. For Augustine, friendship was only possible if faith is kept between people, such that faith is placed in another person without physical evidence of trustworthiness (with the opposite leading to social collapse).[58] He used this argument to compare interpersonal trust and faith in God.[59] In this explanation, the relationality of faith, even faith in God, comes to the fore. One cannot be a faithful Christian without faith/trust in humans in their community and friends.

But this is a community of shared faith. The idea of creation of a community of the faithful does not quite explain how the term *fides* functioned in relationships of trust across religious communities. Indeed, if anything, this understanding should take us further from an explanation of the term in a contract between Abdella Alfenechi, Alfarag of Saragossa and Bertrandus de Teviza. Forrest notes that these religious and community understandings also came with the concept of exclusion, creating boundaries to invoke belonging and exclude those who therefore do not belong.[60] One implication of the creation of an out-group in this manner would be an increase in in-group trust and a decrease in the potential trust of strangers.[61] In this view, faith

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[53] Biller, 'Words and the Medieval Notion of "Religion"'.

[54] Forrest, *Trustworthy Men*, 352.

[55] *Ibid.*, 31.

[56] *Ibid.*, 16; see also Hyams, 'Faith, Fealty and Jewish "Infideles"', 137.

[57] Forrest, *Trustworthy Men*, 26.

[58] *Ibid.*, 26–7.

[59] *Ibid.*, 27.

[60] *Ibid.*, 31.

[61] There has been, and continues to be, a great deal of scholarship in a variety of humanities and social science fields investigating the way in which identity and community affects trust of others, both within the same community/identity group and with members of other identity/community groups. See, for example, Masaki Yuki, William W. Maddux, Marilynn B. Brewer and Kosuke Takemura, 'Cross Cultural Differences in Relationship and Group Based Trust', *Personality and Social Psychology Bulletin*, 31 (2004), 48–62; Karen S. Cook, Margaret Levi and Russell Hardin, 'Introduction', in *Whom Can We Trust? How Groups, Networks and Institutions Make Trust Possible*, ed. Karen S. Cook, Margaret Levi and Russell Hardin (New York, 2009), 1–14; Margaret Foddy and Toshio Yamagishi, 'Group-Based Trust', in *Whom Can We Trust?* ed. Cook, Levi and Hardin, 17–41; Linda R. Tropp, 'The Role of Trust in Intergroup Contact: Its Significance and Implications for Improving Relations between Groups', in *Improving Intergroup Relations: Building on the Legacy of Thomas F. Pettigrew*, ed. Ulrich Wagner, Linda R. Tropp and Gillian Finchilescu (Malden, 2008), 91–106; Roderick M. Kramer, 'Ingroup-Outgroup Trust: Barriers, Benefits, and Bridges', in *The Oxford Handbook of Social and Political Trust*, ed. Eric M. Uslaner (Oxford, 2017), 95–116; Fabian Bornhorst, Andrea

language would then have excluded Abdella Alfenechi and Alfarag of Saragossa as members of a different religious community, making them unable to participate in the culture of 'giving faith', as Hyams has argued.[62]

Furthermore, the religious and the secular cannot always be so neatly separated in the late medieval context. Faith in God and the related faith between humans were also integral to faith in agreements.[63] There is an instant resonance between the faith in the unseen and commercial relationships of trust – belief in the intentions of the other party which cannot be seen or known. Forrest points out that concepts of religious faithfulness were sometimes compared to contracts. For example, baptism could be seen as a binding contract and Laurence of Spain (*c.* 1180–1248) compared godparents to guarantors (*fideiussores*) of a contract such as a debt because godparents were responsible for the godchild's adherence to religion, just as guarantors were answerable for a debt.[64]

Indeed, the use of faith language affected the court within which a broken agreement might be resolved. The making of a promise on faith meant that a break of the promise could be tried in a church court as a breach of faith, evidenced particularly in the English context.[65] Forrest argues, for example, that a promise using *fides* was 'stronger and more formal than the naked word'.[66] Hyams, too, argues that while the use of *fides* 'implies trust between the human parties', it really denoted that a promise was given with both human and Heavenly witnesses. This meant that if it was breached, the agreement became a breach of faith, or *fidei laesio*, allowing the injured party to present the case to an ecclesiastical court. For Hyams, 'making faith neatly leaps the gap, then, between human trust and faith in God'.[67]

Kiril Petkov seeks to trace changes in the relationship between *fides* and religious and legal meanings in the eleventh to fourteenth centuries. He emphasises the origins of the term in the concept of 'loyalty' (taken from the earlier Roman meanings), arguing that it came to have a strong connection to ideas of peace. He argues that the term was used to create specific obligations, creating a binding promise or contract.[68] He traces the strengthening of religious meanings of the term to the end of the thirteenth and the beginning of the fourteenth centuries, arguing that the term came to be tied closely to canon law and subject to ecclesiastical jurisdiction. This meant that religious and moral sanctions for the breaking of a promise made on faith were made stronger.[69]

Ichino, Oliver Kirchkamp, Karl H. Schlag and Eyal Winter, 'Similarities and Differences when Building Trust: The Role of Cultures', *Experimental Economics*, 13 (2010), 260–83.

[62] Hyams, 'Faith, Fealty and Jewish "Infideles"', 144–7.

[63] Forrest, *Trustworthy Men*, 28.

[64] *Ibid.*, 29.

[65] *Ibid.*, 44.

[66] *Ibid.*, 44. It is worth noting, as Forrest does here, that the giving of faith was different from the swearing of an oath, with the latter a yet stronger form of promise.

[67] Hyams, 'Faith, Fealty and Jewish "Infideles"', 143–4. On *fidei laesio*, though in a later period, see also Dave Fogg Postles, 'Fidei Laesio and Debt Revisited: The Lichfield Consistory Court, 1464–1478', *Continuity and Change*, 39 (2024), 2–3.

[68] Kiril Petkov, *The Kiss of Peace: Ritual, Self, and Society in the High and Late Medieval West* (Leiden, 2003), 66–8.

[69] Petkov, *The Kiss of Peace*, 110–13.

Hyams presents the separation between religious and secular connotations of the term less strongly. He notes that *fides* and *fidelitas* were used both to refer to religion and in various secular senses at the same time. Rather than considering the mixed meanings as a problem which needs to be explained and unpacked, he takes the varied connotations as simple fact – the words are referring to more than one thing at once.[70] Hyams looks at more than eighty charters from Yorkshire in the twelfth and early thirteenth centuries which contain reference to making or giving faith, often into the hands of a named third party. He emphasises that the giving of faith was public, done in front of witnesses, often with a related performative action, such that 'the resulting publicity intensified pressure on the parties to stay true to their word, or suffer damage to their reputation'. He emphasises that a promise given on faith was engaging both Heavenly *and* human witnesses.[71]

This understanding of the functionality of *fides* and related language returns us to concepts of public commitments and reputation. Forrest has shown how the concept of fidelity could encompass both 'allegiance to a specific person and the more general character trait of reliability'.[72] For Forrest, the phrase 'I give you my faith' was a giving of a promise but also something of oneself. It was rooted in ideas of public commitments and could mean something akin to 'I commit myself to fulfil my obligation and I am prepared to be held to it'. This was an expression of trust in the other person but also the acceptance of the possible sanctions if there was later mal- or nonfeasance.[73] This understanding calls directly upon the relationship each person had to their community and places the reputation of the promisor within the support, or later punishment through sanctions such as social and economic exclusion, of the community.[74] With this view, we can get much closer to understanding the work done by *fides* language and how it affected trusting relationships between people of different communities.

The term *fides*, therefore, carries a wide array of connotations. It could refer to the relationship between an individual and God, of one Christian to another, of the identity of Christians as a group, of the collective relationship Christians had to God, an ethic or behaviour of constancy derived from the legal concept of equity, while also tying a vassal to his lord.[75] These deep and often implicit metaphorical connections between these various connotations cannot be effectively unpacked in each specific use of the term in the Middle Ages; it is normally impossible to determine the conscious intentions in each individual usage. Rather, we should think about these implications functioning together and seek to understand the effect of the term in specific cases. The term *fides*, carrying connotations of the relationship between the parties and God,

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[70]Hyams, 'Faith, Fealty and Jewish "Infideles"', 138.

[71]*Ibid.*, 143.

[72]Forrest, *Trustworthy Men*, 101.

[73]*Ibid.*, 46.

[74]For reputational mechanisms see, for example, Avner Greif, 'Reputation and Coalitions in Medieval Trade: Evidence on the Maghribi Traders', *Journal of Economic History*, 49 (1989), 857–82; on punishments tied to reputation, see, for example, F. R. P. Akehurst, 'Good Name, Reputation, and Notoriety in French Customary Law', in *Fama: The Politics of Talk and Reputation in Medieval Europe*, ed. Thelma S. Fenster and Daniel Lord Smail (Ithaca, 2003), 75–94.

[75]Forrest, *Trustworthy Men*, 31.

used the religious faith and character of the party as a support for their reputation in secular business. Roman concepts of public honour and reputation were never lost or made completely separate, but came to be combined with new understandings. Indeed, the relational and public community connotations of *fides* are particularly highlighted when we look to usage of the term in relation to notaries and their documents, an area to which we now turn.

Fides and the notary

A particular important use of the term *fides* for the current discussion of commercial relationships is the *fides* held or wielded by notaries. In medieval legal commentaries, *fides* was used to refer to the reliability and moral and professional reputation of a person or document within the wider, public community. The person and writings of the notary were considered to possess *fides*. In Catalan scholarship, this is commonly labelled as *fe pública* or public faith. Scholars argue that this meant that documents written and signed by a notary were considered 'trustworthy'. They could be used as proof of a contract, both with other interested parties and in the courts.[76] Importantly, the work of the notary was considered to be public in two senses: the notary was public, in that they were an official appointed by an administrative or legal authority, and they conducted their work *in public*, in front of witnesses. Both these understandings of public fed into the *fides* that they possessed and placed them in relation to their community.

Notaries first became common in western Europe in Italian towns in the twelfth century before spreading to southern France and Catalonia. They produced everyday documents, such as marriage agreements, wills and testaments, postmortem inventories, debt notes, contracts of sale, as well as records of court proceedings. Notaries were considered to differ from previous scribal practice because they were 'public workers', nominated and given authority by public institutions (such as municipal authorities or the Crown).[77] In Catalonia, notaries were professionalised, either studying at the schools of Bologna or Lleida or through an apprenticeship lasting eight years in a notarial office. At the end of their training, they took an exam in front of royal officials and powerful men (*prohoms*) of the city or region.[78] Ignasi J. Baiges explains that, as such, notaries were considered professional figures with scribal knowledge and labelled as 'public notaries' who were given 'public faith' by an authority figure or institution.

The concept of the notarial profession with public faith, Maria Teresa Ferrer i Mallol and Arcadi Garcia i Sanz argue, was tied to the importation of common law to

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[76]Maria Teresa Ferrer i Mallol, 'L'instrument notarial (segles XI–XV)', in *Actes Del II Congrés d'Història del Notariat Català*, ed. Juan José López Burniol and Josep Maria Sans i Travé (Barcelona, 2000), 29, 31–3; Arcadi Garcia i Sanz, 'Origen de la fe pública del document notarial', *ibid.*, 491–502; Ignasi J. Baiges, 'El notariat Català: origen i evolució', in *Actes Del I Congrés d'Història del Notariat Català: Barcleona, 11,12, i 13 de Novembre de 1993*, ed. Josep Maria Sans i Travé (Barcelona, 1994), 131–6.

[77]Laurie Nussdorfer, *Brokers of Public Trust: Notaries in Early Modern Rome* (Baltimore, 2009), 11.

[78]Baiges, 'Notariat Català', 135–6, 139; Ferrer i Mallol, 'L'instrument notarial (segles XI–XV)', 32; Arcadi Garcia i Sanz, 'Precedents, origen, i evolució dels Col·legis Notarials', in *Actes del I Congrés d'Història del Notariat Català*, ed. Sans i Travé, 173.

southern Europe.[79] Despite complications created by a system of federated monarchy, with smaller territorial units each allowed their own law, from the twelfth century onwards and following developments in the rest of western Europe, law in the Crown of Aragon became a combination of the *ius commune* and local customs.[80]

Originating in Bologna, the academic study of law expanded rapidly, centring on the *Corpus iuris civilis* (the Justinianic corpus) and the *Decretum*, a compilation of excerpts created by Gratian (or possibly Gratian and a collaborator) between 1140 and 1150. This collection drew on Church councils, writings of the Church Fathers, and other sources deemed authoritative by Christians.[81] Together, civil law and canon law formed the *ius commune* ('common law'), which was applied in cases where local laws or customs did not conflict with it.[82] Modern scholars recognise Justinian's legal texts as the product of diverse contributors addressing varying needs and philosophical currents. In contrast, medieval jurists approached these texts as a unified and coherent whole, interpreting each passage in relation to all others.[83] Introduced through trade routes with Italy, the *ius commune* reached Catalonia by the late twelfth century and became well-established in academic settings, legislative frameworks and local practices by the thirteenth century.

Garcia i Sanz argues that the notion of 'public faith' originated with Pope Alexander III (1159–81), who proclaimed that documents produced by public notaries (*per manum publicam* or 'by public hand') should be regarded as reliable and trustworthy records of the transactions they described, even after the writer's death.[84] According to James A. Brundage, this established these documents as 'public instruments' whose authority did not rely on the presence of witnesses, seals or other means of authentication. The notary's official statement that he had written and validated the document with his personal sign served as a guarantee of its trustworthiness and reliability.[85]

Canon law codes and commentaries by predominantly Italian jurists of the later fourteenth century defined the position of the notary and his documents using the term *fides*, firmly connecting the concept of trustworthiness with the public position of the notary. The perpetual trustworthiness of both authentic and public documents was normally referred to by commentators with the word *fides*, though they rarely define the term. Francesco Zabarella (born in Padua in 1360 and educated at Bologna) and Johannes de Imola (born in 1372 and educated at Bologna) wrote that authentic writing made (*facit*) or employed/used (*adhibetur*) *fidem*.[86] The future archbishop of

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[79]Ferrer i Mallol, 'L'instrument notarial (segles xi–xv)', 31–2; Garcia i Sanz, 'Origen de la fe pública del document notarial', 492.

[80]Marie A. Kelleher, *The Measure of Woman: Law and Female Identity in the Crown of Aragon, Middle Ages* (Philadelphia, 2010), 16–17.

[81]Anders Winroth, *The Making of Gratian's Decretum* (Cambridge, 2000).

[82]James Gordley, *The Jurists: A Critical History* (Oxford, 2014), 28.

[83]Gordley, *Philosophical Origins*, 30; Manlio Bellomo, *The Common Legal Past of Europe, 1000–1800*, trans. Lydia G. Cochrane (Washington DC, 1995), 55–125.

[84]Garcia i Sanz, 'Origen de la fe pública', 491, 493–4; Ferrer i Mallol, 'L'instrument notarial', 31–2.

[85]James A. Brundage, *The Medieval Origins of the Legal Profession: Canonists, Civilians, and Courts* (Chicago, 2008), 398.

[86]Francesco Zabarella, *Lectura d[omi]ni Cardinalis Zabarella Super secu[n]do decretalium adamussim tersa [et] emuncta. [et] in multis locis in q[ui]bus erat laniata nunc artificiose resarta*, ed. Jean Thierry (Impressa quide[m] Lugduni, 1517), fo. 53r; Johannes de Imola, *Ioannes de Imola Super prima parte primi [-secu[n]di] libri*

Palermo Nicolò de Tudeschis, known as Panormitanus (born in Catania in 1386 and educated in canon law in Bologna and Padua under Zabarella), similarly wrote that authentic writing made its own faith so that 'it did not require another support to prove its validity' (*ad sui validitatem non requirit alius adminiculum*).[87] Zabarella stated that not all authentic writing made faith (*facit fidem*) but that public writing made faith, even if the witnesses died, if written by a notary.[88] Panormitanus also uses the term *fides* to define notarial writing specifically: the 'writing of the notary, without any other assistance, gives faith' (*scriptura tabellionis sine alio adminuculo facit fidem*).[89]

That public/authentic writings 'create faith' is further emphasised when the commentators consider the status of private writings. We learn from Panormitanus that 'a private instrument is not trusted' (*priuato instrumento non creditur*).[90] When signed and approved by witnesses, he states, private writing is not known as public, though one could say it was written publicly (presumably publicly meaning in public as opposed to in secret, rather than by a public hand).[91] Zabarella also directly addresses the legal state of private writing, stating that writing is called private because 'it does not make faith' (*non facit fidem*) unless it is helped by witnesses who were present.[92] Imola too focuses on the lack of *fides* in private writings.[93] In this, we can see explicitly that the work of the notary is public in both senses, and particularly as witnessed and in public.

Similarly, the legal position and related *fides* of the protocol comes under question by commentators. Notaries kept copies of all the contracts they drafted in volumes commonly called 'protocols'. Owing to the nature of contract creation, these protocols often contained abbreviated versions of the contracts.[94] There are long discussions

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Decretalium, Per Bernardinum Stagninum de Tridino de Monteferato, (Impressione[m] habuit Venetijs, 1500), 100v, fo. 101v.

[87]Nicolaus de Tudeschis (Panormitanus), *S[e]cun[d]a Panormi[tani] in S[e]c[un]d[u]m Decreta[lium] Secunda pars comme[n]tarioru[m]: seu lecture: domini Nicolai de Tudeschis,* (Lugdini, 1527), fo. 143v.

[88]Zabarella, *Lectura*, fo. 53r.

[89]Panormitanus, *S[e]cun[d]a Panormi[tani]*, fo. 173r.

[90]*Ibid.*, fo. 146v.

[91]*Ibid.*, fo. 144r: 'si scriptura priuata et testibus subscripta et approbata non dicitur publica: licet posset dici publice conscripta'.

[92]Zabarella, *Lectura*, fo. 53r: 'potius enim dicitur priuata: quia non facit fidem si negetur nisi iuuentur a testibus qui interfuerint' ('rather it is called "private": because he does not hold the faith if it be denied, unless he is helped by the witnesses who were present').

[93]Imola, *Ioannes de Imola,* fos. 102v: 'tunc ex quo est priuata non facit plenam fidem' ('that which is private does not have full faith'); 90v: 'Idem si interuenit scriptura sed minus solemnis, ut quia est scriptura priuata, que non facit fidem' ('The same thing if writing appeared, but less solemn, as because it is private writing that does not make faith').

[94]Using late fourteenth-century sources from Barcelona, Maria Teresa Ferrer i Mallol has identified the main steps in the creation of a notarial act: *rogatio* or questioning by the notary of the contracting parties, probably in Catalan; the drafting of a *cedula*, or initial rough outline of the contract written on a loose leaf sheet in Latin; the reading aloud of the draft to interested parties, probably in Catalan; once finalised, the entering of an abbreviated version of the contract, the *notula/nota/minute*, with identifying details but without full legal clauses into the notarial register by the notary or assistant scribe; finally, if the contracting parties requested a copy, the writing of a full version in 'public form' including all legal clauses on parchment, including the notary's name, title and professional mark by the notary or scribe. These stages have been particularly clearly described by Elizabeth Ann Comuzzi. See Maria Teresa Ferrer i Mallol, 'La redacció de l'instrument notarial a Catalunya: cèdules, manuals, llibres i cartes', *Estudis d'història i documents dels arxius de protocols*, 4 (1974), 29–191; Elizabeth Ann Comuzzi, 'Economic and Demographic Change

about whether the protocol 'makes faith' and whether a different notary from that who writes the protocol can write and sign the extended document which was to be handed to the parties and still give it faith. Johannes de Imola concludes that the protocol does make faith itself: 'I am satisfied that the protocol makes faith' (*satis eredo quod prothcollum faciat fidem*).[95] The *fides* that the notary and his documents possessed related to the trustworthiness or reliability of the person or writing. This was particularly tied to the ongoing nature of the trust. Imola states, for example, that 'public instrument makes faith: even if the witnesses die or the notary dies' (*instrumentum publicum facit fidem: licet testes inscripti decesserint. et idem dic etiam si notarius obsit*).[96]

The complex position held by notaries, at once skilled individuals working for private clients yet appointed by public authorities and creating documents which held a particular status within the law, is central to understanding the way that *fides* worked in discussions of their work.[97] Laurie Nussdorfer suggests that notaries became indispensable due to emerging forms of public authority. Developing law faculties and legal education placed a heightened value on written evidence, giving rise to the concept of the 'public credibility' (*fides*) associated with the notarial art.[98] Invested with this credibility (or *fides*) by public authority, notaries came to possess a quality of 'public trustworthiness'.[99] Indeed, the importance of the position and writing of the notary to the public, to the community, was central to the role itself. They were people trusted to create and protect contracts, to record the everyday lives of the locality and create relationships of trust. I have previously demonstrated that the terms notary and public were deeply connected and often used to define each other by legal commentators.[100] The notary was a person officially trusted by the community.

Nussdorfer argues that notaries acted as 'brokers' of public trust, bridging the gap between public officials and independent professionals.[101] More than brokers, however, notaries can be seen as creators of trust, collaborating with clients to actively create documents. Nussdorfer describes the notary's designation as a 'public person' as a 'legal fiction'.[102] However, the notary's role and the authority that they held were crucial for establishing relationships of trust. Their position as collaborators and publicly trusted people was not merely theoretical but an essential aspect of how trade contracts were created and operated in practice. The role of the notary was dynamic, as they acted as collaborators and negotiators, adapting the text of documents and including a variety of different phrases and words to meet the needs of the specific parties involved in contract creation.[103] This has implications for how we understand

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through Notarial Sources: The Example of Puigcerdà 1260–1360' (Ph.D. thesis, University of California, 2020), 35–41.

[95]Imola, *Ioannes de Imola*, fo. 114r.

[96]Panormitanus, *S[e]cun]da Panormi[tani]*, fo. 147r.

[97]For more on the complex position of medieval notaries between public and private, see Hancock, 'Trust in Trade', 34–52.

[98]Nussdorfer, *Brokers of Public Trust*, 1, 7.

[99]*Ibid.*, 3–4.

[100]Hancock, 'Trust in Trade', 38–9.

[101]Nussdorfer, *Brokers of Public Trust*, 3–4.

[102]*Ibid.*, 12.

[103]Hancock, 'Trust in Trade', 53–9.

notaries and their *fides*. The notary was trusted as a public person in both senses, as a public official and as someone who worked in public. Both these features highlight that it was the position of the notary and his documents in relation to the wider community and within the law that mattered to the commentators. The *fides* possessed by the notary and his documents spoke to the reliability, and moral and professional reputation, of a person or writing within the wider, public community.[104]

Commercial *fides* and relationality as a solution to interreligious trust

We have seen that *fides* has a variety of religious, legal and seignorial meanings and was also used to describe the authority of the notary. What do all these meanings have in common? They all speak to the relationship between a person and their community, placing the reputation and reliability of a person in conversation with either a religious, social or legal community. Religious understandings of the term show how communities of the faithful were built using the idea of *fides*. In seignorial settings, the relationship between a peasant and a lord was defined by *fides*, by the behaviour and loyalty that one owed another. In law, *fides* was rooted in public commitments and the good behaviour which citizens owed to each other. In notarial culture, the position of the notary and his documents in relation to the community and the law was defined by *fides*. It is this relationality of *fides* which allows us to understand how the term could build and maintain trust in relationships between merchants of different religious communities.

Each understanding of *fides* emphasises witnessing and the community as a solidifier of personal reputation and a part of the creation of trust. Forrest highlights the importance of witnesses and 'the open and public manner in which everyone had conducted themselves', arguing that communal witnessing or communal memory was necessary for the creation of trust. For Forrest, an individual's ability to function in medieval society was determined by their own character but also by how they appeared to others, on the formation of a shared attitude towards the individual, related to the coexistence of rumour, gossip and defamation.[105] We can look to a wide array of literature on the concept of medieval *fama* (reputation) in support of the impact an individual's standing in public had on the ways in which they could function in society.[106] Indeed, Steven A. Epstein has emphasised the importance of doing mercantile business in public, in order to protect one's reputation.[107] In a situation analogous to Forrest's bishops who sought to create an 'institutionally sanctioned form of social memory', the merchants of Barcelona and Mallorca can be seen to use social memory, to use the communities of which they are a part as social institutions in and

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[104]Zabarella, *Lectura*, fo. 53r; Imola, *Ioannes de Imola*, fos. 100v, 101v; Panormitanus, *S[e]cun]da Panormi[tani]*, fo. 143v.

[105]Forrest, *Trustworthy Men*, 50, 52, 77.

[106]See, for example, Fenster and Smail (eds.), *Fama*; Jesus Angel Solorzano Telechea, 'Fama Publica, Infamy and Defamation: Judicial Violence and Social Control of Crimes against Sexual Morals in Medieval Castile', *Journal of Medieval History*, 33 (2007): 398–413; Marie A. Kelleher, 'Law and the Maiden: *Inquisitio*, Fama, and the Testimony of Children in Medieval Catalonia', *Viator*, 37 (2006), 351–67.

[107]Steven A. Epstein, 'Secrecy and Genoese Commercial Practices', *Journal of Medieval History*, 20 (1994), 313–25.

of themselves, to provide witness to and support of their activities.[108] The community acted as a guarantor of trust, providing evidence of good actions and intentions, but also the possibility of punishment.

Indeed, as the previous discussion has shown, I am not the first to emphasise *fides* as a term tied to community, witnessing and reputation. Morgan argues that '*Pistis* is a relational concept whose meaning is always defined in part by the relationship in which it operates'.[109] It is about the trust which one gives as well as the trust that one is given. Morgan noted that we need not distinguish completely between trust as strictly interpersonal and as a shared commitment to ideals, social formations or institutions. Rather than a secure idea, interpersonal trust defers to 'proofs, arguments, shared beliefs, institutions, and the views of a wider community, all of which themselves depend on trust and further beliefs'.[110] Hyams, too, notes that *fides* came to be associated with proof and as part of an effort to convince others that one can be trusted.[111]

Forrest also points to how trust was located within groups and networks, pointing to the complex credit networks which existed in medieval English villages/communities. The complex relationships which coexisted meant that each promise was more than a matter of trust between one lender and one borrower. Each relationship impacted many people in the local community in mutually dependent obligations. As such, he emphasises, 'faith was not merely given by the borrower to the lender, with onlookers as witnesses; all interested parties – which might mean the whole community or the whole network – wanted to be reassured that a new obligation was underwritten by faith'.[112] Trust in these circumstances was related both to one's own image and to the expectations of a variety of other people.[113] The tie between *fides* and the community could work in reverse; Forrest notes that 'loss of trust was widely associated with isolation', while a variety of scholars have pointed to punishments or sanctions related to loss of reputation or the breaking of obligations.[114]

It was exactly this relationship between an individual and a community which was the important part of *fides* in commercial relationships. It did not matter that parties were different communities. What mattered was that the term called upon one's relationship with and one's standing in a community. *Fides* terms did trust work, building relationships of trust by calling directly upon the relationship each individual had to their community and placed the reputation of the promisor within the support, or later punishment, of the community. A relational and trust-work understanding of *fides* terms explains how a variety of trust relationships were created, between members of the same community and members of different communities, as evidenced in the two

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[108]Forrest, *Trustworthy Men*, 343. On trust and social institutions, see *ibid.*, 53; on 'institutions' as 'rules of the game' rather than organisations, see Douglass C. North, *Institutions, Institutional Change and Economic Performance* (Cambridge, 1990).

[109]Morgan, *Roman Faith and Christian Faith*, 4–5.

[110]*Ibid.*, 19–20.

[111]Hyams, 'Faith, Fealty and Jewish "Infideles"', 131.

[112]Forrest, *Trustworthy Men*, 55.

[113]*Ibid.*, 63.

[114]*Ibid.*, 83–4; Greif, 'Reputation and Coalitions in Medieval Trade'; Akehurst, 'Good Name, Reputation, and Notoriety'; Jeffrey A. Bowman, 'Infamy and Proof in Medieval Spain', in *Fama: The Politics of Talk*, ed. Fenster and Smail, 95–117.

following examples of interreligious trade contracts from Barcelona: firstly, between Borracius Mancofa, Stephanus Bordelli and David de Apiaria, an example of Christian merchants using *fides* language to secure their relationship with a Jewish merchant; and secondly, between Bonjuha Bonavia, Issach Bonavia and Jacobus de Forebus, an example of Jewish merchants using *fides* language with a Christian investor.

Fides in the commercial wild

On 7 August 1314, Borracius Mancofa, Stephanus Bordelli and David de Apiaria, the latter a Jewish merchant, stood before the notary Pere de Torre in his office in Barcelona. The contract written by Pere de Torre records that Borracius Mancofa and Stephanus Bordelli received goods from David de Apiaria and agreed to transport him, along with his mother, family, servants and slaves to Cyprus. The text of the contract was quite detailed, as Borracius Mancofa and Stephanus Bordelli provided options for David de Apiaria to decide at a later point whether he wanted to send the ship on to Narbonne from Cyprus with his goods and family. The agreement ended with a statement by David de Apiaria promising that he would fulfil his side of the agreement, without using any faith language.[115] This was followed by a shorter statement by Borracius Mancofa and Stephanus Bordelli in which they agreed to uphold their side of the contract, 'in good faith': *super omnibus aliis predictis et singulis complebimus et accendimus vobis bona fide et sum aliquo dolo et fraude* ('concerning all the other aforesaid matters and each one individually, we will fulfil and agree with you in good faith or without any deceit or fraud'). Though Borracius Mancofa and Stephanus Bordelli were of a different religious faith to David de Apiaria, the men chose to secure their promise by employing the language of *fides*. The combination with *dolo et fraude* recalls legal meanings of the phrase, emphasising their good intentions (though, as we have seen, promises were still made by merchants, and indeed were legally binding, without the use of *fides* language).[116]

This was not the first time that Borracius Mancofa and Stephanus Bordelli had agreed to ship the goods of another merchant. Earlier that same year, on 14 June 1314, the pair used Pere de Torre's services to create an agreement with Petrus Terrache, Mancho de Canali, Guillemus Pebrery and Salvator Falicii, all citizens of Barcelona, to ship their goods to Sicily. In this agreement, following very much the same form as that with David de Apiaria later in the year, Borracius Mancofa and Stephanus Bordelli similarly agreed to uphold their side of the agreement 'in good faith': *omnia supradicta et singula promitimus nos dicti Borratius Mancofa et Stephanus Bordelli accedere et complere*

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[115]AHPB, Pere de Torre 6/1, fo. 103r1: 'Ad hoc ego dictus David de Apiaria recipos a vobis dicti Borracio Mancofa et Stephano Bordelli predictis nauleacionem dicte coche vestre sub forma pactis et condition-ibus supradictis et predictis omnibus et si[ngulans] consuationis etiam promito vobis dictes patronis quod omniam et singulam supradicta que a me sint vobis complenda et a[cc]endendi [___]mus carricatore dic-tarum mercium sunt [et] rerum quam super solucionem dicti nauli que super expedicione dicte Coche' ('To this, I, the said David de Apiaria, accept from you, the said Borracio Mancofa and Stephano Bordelli, the hiring of your said vessel under the form of the agreements and conditions described above. And con-cerning all the aforementioned matters, and each one individually, I also promise to you, the said patrons, that all and each of the aforementioned matters which are to be fulfilled by me for you will be completed and agreed upon, whether regarding the loading of the said goods and items, or concerning the payment of the said freight charge, or concerning the completion of the said vessel's voyage').

[116]It is worth noting that the agreement from October 1247 between Jacobus Aragonaris and Arnaldus Gerrad did not include reference to 'dolo et fraude': ARM, ECR 343, fo. 218r3.

vobis dictis mercibus et rebus et bona fide et sine aliquo dolo fraude ('we promise, for all of the above and individually, Borratius Mancofa and Stephanus Bordelli, to perform and ful-fil for you, the said goods and things, in good faith and without any deceit or fraud').[117] Petrus Terrache, Mancho de Canali, Guillemus Pebrery and Salvator Falicii then made a statement to uphold their side of the contract. Though the folios of the agreement have suffered damage, making a full transcription challenging, it appears that they did not make their statement on good faith.

In comparing Borracius Mancofa's and Stephanus Bordelli's behaviour in these two agreements, we can see that the Christian investing party (Petrus Terrache, Mancho de Canali, Guillemus Pebrery and Salvator Falicii) was not treated any differently from the Jewish investing party (David de Apiaria). In very similar contracts, written by the same notary and with the same travelling merchants – one party to the agreement who undertook the trading venture using the investment – promised to conduct their business 'on good faith'. The investing parties received the promise which was backed up by the *fides* language but did not use faith language themselves. These agreements suggest that there was not an issue for a Christian travelling party to make a promise using *fides* language to an investing party who was of a different religious community. The agreements between Borracius Mancofa, Stephanus Bordelli and David de Apiaria contained no additional clauses or promises; though the agreement was more complex (as David de Apiaria was expressly given the option to make future decisions about the location of the next voyage of the ship with his goods), the parties did not choose to include additional trust language. The choice to include *fides* language, alongside references to lawful behaviour and honesty, highlights the reputational meanings of *fides*/faithfulness; the terms call upon one's reputation, loyalty, and trustworthiness in relation to their community.

Jewish merchants also made use of faith language to build trust and elevate their promises. On 2 June 1316, Bonjuha Bonavia and Issach Bonavia, sons of Abram Bonavia and Jews of Barcelona, received an investment of £30 from Jacobus de Forebus, a Christian merchant of Barcelona. The investment was to be used for trade in Narbonne and Provence. In the agreement, written by the notary Pere de Torre, Bonjuha and Issach Bonavia made a promise to Jacobus de Forebus to be faithful: *Promittentes esse fideles etc* ('we promise to be faithful etc.').[118] A promise to be faithful, made from Jewish merchants to a Christian investor, cannot have simply referred to religious faith, while a strictly legal understanding would miss the deep religious connotations of the word. Indeed, the combined religious, secular and legal connotations of *fideles* suggests that Bonjuha and Issach Bonavia were choosing to secure their promise by calling upon their reputation for reliability and honesty in relation to their commu-nity. That Jacobus de Forebus was not part of the community did not matter. Bonjuha and Issach Bonavia could rely on their social reputations to create trust in their future intentions and behaviours.[119]

For the term *fides* to function as a part of a relationship-building phrase in these agreements – as well as the contract between Abdella Alfenechi, Alfarag of Saragossa

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[117]AHPB, Pere de Torre 6/1, fos. 67v2–69r.

[118]AHPB, Pere de Torre 6/2, fo. 102r1.

[119]On the psychology and philosophy of promise-making and the effect this has on expected future behaviour and mindset, see, Hancock, 'Trust in Trade', 135–8.

and Bertrandus de Teviza which opened this work – the meaning would need to be shared in some way between the different communities. Focusing on the term as either religious, legal or notarial cannot provide an understanding which allows the word to function as trust language. Rather, the faithfulness in the contracts represented and affirmed loyalty and trustworthiness, calling upon the reputation of the parties in relation to their communities, rather than invoking their faith in relation to God or solely calling upon Roman legal understandings (which by this time could not be neatly separated from religious meanings). This relational and trust-work based conception of the term allows us to understand the way in which trust language was functioning across religious boundaries. Meanings rooted in public commitments centred on faithfulness in business dealings and the trustworthiness as merchants, using the social institution of the community to support claims to reliability and provide a path for enacting reputational damage if needed.

Conclusion

The agreements discussed in this article all demonstrate that there was some form of shared culture of trust, or at least a shared trust language, between individuals from different religious communities. There was a shared concept of the ways in which one might seek to build trust with another party, through a deeply relational, networked and interpersonal usage of *fides* – one that connects, rather than separates. Though Forrest observes that one consequence of faith was the belief that 'a firm faith in God was protection against doubt and heresy', he also highlights that Jews and Muslims were regarded as 'the faithful' of an erroneous faith, though a faith nonetheless.[120] Such thinking was present in Catalan intellectual circles where it was understood that, though the three main religions conceived of God in different ways, they all worshiped the same God. This was argued by Ramon Llull in his *Book of the Gentile*, for example.[121]

The easy use of *fides* in contracts between members of different religions challenges the idea that the conclusions made by Hyams might have a more general applicability. He finds that there are no cases in England 'or elsewhere of a Jew swearing his faith in this way or giving faith with his right hand'. This shows, he argues, a 'serious defect in the legal and everyday social capacity of English Jews to pursue their business activities with their Gentile neighbours'; indeed, he goes so far as to call this a 'gulf of faith'.[122] In the examples I have presented here, however, we find the opposite, albeit in a different context. Rather than revealing a gulf of faith, the contracts of Mallorca and Barcelona show that there was a shared understanding of methods of trust-building using faith language, which was used by members of all three religious communities.

One way to push this finding further is to consider how a shared understanding of *fides* language interacted with and/or supported inequalities in power and agency in medieval Catalan trade. Forrest points out that while the language of faith suggests equality and, indeed, unity, its use was tied up with intellectual hierarchies

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[120]Forrest, *Trustworthy Men*, 26.

[121]Ramon Llull, Anthony Bonner and Eve Bonner, *Doctor Illuminatus: A Ramon Llull Reader* (Princeton, 1993), 50, 85–171; Annemarie C. Mayer, 'Ramon Llull and the Indispensable Dialogue', *Quaderns de la Mediterrània*, 14 (2010), 53–9.

[122]Hyams, 'Faith, Fealty and Jewish "Infideles"', 144–7.

and tight boundaries of belonging and control.[123] Though space limits investigation here, how the social standing and wealth of individuals intersected with use of *fides* in inter-community relationships deserves future attention.

To conclude, by considering the wide connotations of *fides* together and understanding the term relationally, this article has revealed how a shared culture of trust operated through faith-related language between individuals from different religious communities. By placing an individual and their trustworthiness in relation to their community, *fides* functioned to create and maintain trusting relationships both between co-religionists and between members of different religious groups. *Fides* allowed merchants to use their social relationships as evidence of goodwill and provided a road to reputational punishment in case of failure or betrayal. The notarial contracts from Barcelona and Mallorca demonstrate how the term was used to create and maintain interpersonal trust and presents an example of merchants choosing to 'trust trust'.[124] They trusted that the trust in the community, and in relation to the community, would be sufficient and effective in creating the relationships required for long-distance (and risky) trading ventures.

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[123]Forrest, *Trustworthy Men*, 26.

[124]*Ibid.*, 60; Diego Gambetta, 'Can We Trust Trust?', in *Trust: Making and Breaking Cooperative Relations*, ed. Diego Gambetta (Oxford, 1990), 213–37.