

English Abstract

The Contribution of the Scholars of Morocco to the Development of Constitutional Jewish Law

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Throughout its existence, the Jewish community was fertile ground for the development of Jewish law, particularly in the realm of public law. The actual use of Jewish law as a true 'living Torah,' enabled an encounter between the scholars of the community and the questions arising within the community thus leading to the creation of a vast body of literature whose relevance has stood the test of time.

The article focuses in some of the richness preserved in the literature of the Moroccan scholars in the field of Jewish Constitutional Law. It will look at the entirety of this body of works – hundreds and thousands of community regulations, halakhic compositions, piyutim [liturgical poems], books of new and innovative commentaries, responsa literature and legal decisions, many of which are still hidden away in manuscripts while others were only published in the last half century.

The article examines various issues in public law – constitutional and administrative – on the background of their time and place. Among other things, fundamental issues of the contemporary 'doctrine of human rights,' including individual liberty and imprisonment for debt; imprisonment of women; Sumptuary Laws; freedom in matters of attire; freedom of movement; the right to marry; freedom of occupation; the right to an education; freedom of assembly; judicial pluralism; the right to seek judicial redress and the prohibition on situations of conflict of interest.

The article will issue a call to assimilate the great wealth of the works of the scholars of Morocco in the field of Jewish public law – Constitutional Law and Administrative Law – into contemporary law,

especially in the State of Israel, whose values are both "Jewish and democratic."