

BAR-ILAN UNIVERSITY

Harmonization of Halachic Decision: Between Containment and Rejections

**Initial Studies on Trends of Unifying the Religious Ruling in
Relation to Contemplation of Moroccan Rabbis, in High
Halachic Discourse in Israel in the Twentieth Century**

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Abstract

In the twentieth century many historical processes took place which influenced the Jewish community. The main process was the creation of the state of Israel. In parallel to this event, in Morocco the Jewish community gained broad autonomy in matters of internal community matters. In addition, there were changes in the field of modernization and intensive scientific developments.

In response to these processes, within the world of Jewish law there were trends towards unifying Jewish law. In this research project I have related to the trends that occurred in the latter half of the twentieth century in the religious Zionist community through the offices of the Israeli Chief Rabbinate, as well as trends in the Sephardic religious and ultra-orthodox community headed by Rabbi Ovadi'a Yosef. These trends were related and compared to the trends in unification of Jewish law in advanced by the Moroccan Chief Rabbinate, a unique body which incorporates all of the rabbis of the Moroccan Jewish communities and which meets once a year.

In the first chapter, I examined trends which occurred both in the Moroccan and Israeli chief rabbinates. These include a widow's marriage to her deceased husband's brother (Yibum) and the alternative option of refusing such a marriage (Chalitzah), inheritance by a daughter, and the religious procedure in which the Mohel at a circumcision sucks the circumcised infant's blood. In the course of examining "Yibum", I reached the conclusion that the Israeli Chief Rabbinate adopted the Ashkenazi custom of preferring "Chalitzah", as opposed to the Sefardi custom which preferred "Yibum." As opposed to this, the Moroccan Chief Rabbinate examined the issue in a deep process that

attempted to examine all the sides to the issue and found a path which incorporated both customs. This incorporation involved a reform which broadened the conditions which allowed for "Chalitzah" and at the same time did not dismiss the possibility of "Yibum", to the satisfaction of both the male marrier and the woman who is to be married. In addition, I noted trends of the Moroccan Rabbinate which indicate sensitivity to women's needs and attempts to place women and men on an equal footing.

The second issue which I examined was a daughter's inheritance. I discussed the manner in which Israeli Chief Rabbi Herzog and the Israeli Chief Rabbinate conducted a discussion which attempted to adopt the more progressive Moroccan rabbinical approach to the matter. Albeit, in the final analysis the Israeli Chief Rabbinate gave in to pressures from the ultra-orthodox approach and changes were not made. As opposed to this, in the same time period the Moroccan Chief Rabbinate did adapt reforms in the possibility of a daughter's inheritance, which occurred in two separate areas: First, it obtained a broad consensus which enabled unifying Jewish law and custom of all Moroccan communities. Second, it expanded the religious framework in which a daughter's inheritance goes beyond the point of custom that the daughter may inherit possessions of her father and mother according to a rabbinic ordinance, as well as attempting to obtain equal inheritance rights for a married daughter.

The third issue which I examined is the procedure in which the Mohel at a circumcision sucks the circumcised infant's blood, I found that there were not parallel developments in Israel and Morocco. I found that in instances of danger to life the Israeli rabbinate feared reform, while the Moroccan rabbinate gave

precedence to reform and change, and ruled that a vessel may be used in the process.

In the next chapter I examined Rabbi Ovadi'a Yosef's perspective regarding Moroccan religious customs as it relates to his point of view regarding the unification of religious rulings in the Sefardic world. Over the course of his religious leadership, both formal and informal, Rabbi Ovadi'a became the religious- political-social leader of the vast majority of Sefardi congregations in Israel. His religious perspective was adopted as the central Sefardi point of view for the twentieth century. His point of view aimed for the unification of religious practice by attempting to decrease the influence of Rabbi Yosef Karo and his book of Jewish law (Shulchan Aruch), while at the same time expanded the influence of Rabbi Ovadi'a Yosef's own religious point of view, while it still managed to build his reputation as the continuer of Rabbi Karo's tradition. In the course of Rabbi Obadiah's desire to unite religious rulings and in relation to Moroccan customs, a process occurred in which Rabbi Ovadi'a pushed aside Moroccan customs and even attempted to cancel them. Strangely, it appears that even when Moroccan rabbinical leadership clearly based its customs on established Jewish law it appeared that Rabbi Ovadi'a demanded that the Moroccan Rabbinical leadership give up its customs. Rav Ovadi'a Yosef's push to find common ground with non-Sephardic religious rulings appeared to undermine the uniqueness and the logic inherent in the Sephardic religious point of view.

The main conclusion of my research is that in the twentieth century there were trends of unification of Jewish law in different Jewish groups, including religious

Zionism and the Israeli Chief Rabbinate, the Moroccan Jewish community and the religious Sephardic community. Other research shows that this trend also occurred in the Ashkenazi ultra-orthodox community. The reasons for this are varied, but most relate to the attempt to deal with societal modernization as well as to the establishment of the State of Israel.

When I examined the trends in the various communities, I noted that the process of the Moroccan Chief Rabbinate attempts to come to terms with the point of view of various communal groups, as opposed to the Israeli Chief Rabbinate which mainly adopted Ashkenazi rulings at the expense of Sephardi rulings. The Moroccan trend is also very different from the process of unifying religious ruling promoted by Rabbi Ovadi'a Yosef in which he pushed various Sephardic customs to the fringe of religious ruling.

In addition it appears that the process of unification of religious rulings in Morocco involved the incorporation of modernization within the religious framework, while avoiding a breakdown of religious order, for instance the inclusion of the medical point of view and an attempt to relate to women's' desire for sexual equality. From the fact that this process occurred in Morocco in the twentieth century we learn much about how religion can find common ground with openness, innovation, and broad consensus, while still maintaining the established religious ritual framework. The success of this process in Morocco can serve as an example to the Israeli Rabbinate as it faces similar challenges in the state of Israel.