

Moroccan Jewish Law Tradition and Modern Medicine

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This study examines two areas of encounter between law and modern medicine in the Moroccan tradition in the mid-20th century: the issue of circumcision and matters of fertility and paternity. In both areas this tradition is characterized by abstaining from overreaction to the innovations of modern medicine. On the contrary, modern medicine has enjoyed a warm welcome, or in the words of one sage: "A new light appeared in our day in all branches of wisdom and science, and one of them is the art of medicine and surgery." This phenomenon is even more special when compared to other halakhic traditions in the modern era, from the beginning of the emancipation and secularization in the early 19th century to the present day. It is most pronounced in the area of circumcision when compared to the reactions of other traditions in Central Europe, Eastern Europe, and in the Sephardic world. On this issue, Moroccan tradition went further than any moderate Ashkenazi or Sephardic tradition, comprehensively regulating it through legislation that encompasses every aspect affecting the whole public without exception, in absolute compliance with the requirements of modern medicine. This sympathy toward modern medicine was not rooted in a comprehensive knowledge of all branches of modern medicine. In matters of fertility, for example, Moroccan scholars were not exposed to the latest innovations of modern medicine, and they continued to take positions based on old medical scientific knowledge, as reflected in ancient halakhic sources. At the same time, we expect that the exposure to medical innovation would have led to the inclusion of these innovations within the halakhic framework based, among the rest, on the halachik category of "nature has changed," or even the category that "times have changed." This hypothesis, however, is difficult to test in practice because the Moroccan rabbinical center was abolished and most of the sages moved to Israel. Only one case of exposure to scientific innovation is known to me, and it is the question of determining paternity by genetic means. Notable is the restrained and substantive response by Rabbi S. Mashash, compared to the harsh views and sharp language toward science exhibited by some important Israeli rabbinical judges when first confronted with discoveries in the field of genetics.