

PAPER DETAILS

TITLE: Jewish and Islamic Law: A Comparative Study of Custom during the Geonic Period

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PAGES: 159-161

ORIGINAL PDF URL: <https://dergipark.org.tr/tr/download/article-file/2269786>

phenomena in their own way; anything that takes place in their everyday lives, whether it is an object falling or the neighbor's broken windows.

A fairly good overview of all the chapters can be found in Chapter 1 by Marie Larochelle and Nadine Bednarz, but I would like to focus on some of the issues that have somehow been omitted from this book. Even though the book covers certain aspects of constructivism with its multiple implications in education, it still misses, I believe, some important dimensions, such as the critical role that school settings and culture play in constructivist education. There is no doubt that schools teach much more than they publicize. As Elliot Eisner convincingly argues in his book, *The Educational Imagination*, schools teach in a fashion that the culture itself teaches; this is simply because schools are the kinds of places they are. And, it is hard not to remember at this juncture the point that Dewey made long ago: "Perhaps the greatest of all pedagogical fallacies is the notion that a person learns only the particular thing he is studying at the time."

All in all, the authors endeavor to substantiate the idea that students are not a *tabula rasa* nor clay waiting to be molded to whatever the adults desire. Rather, they are both actors and makers of their cognition and mentality: They associate, decipher, interpret, and transform in their own particular way.

Finally, the book concludes that once students have acquired awareness of the constructed knowledge with its relative character in nature, and are able to recognize the collective, consensual aspects involved in the construction process, they also gain the basic mental mechanism that empowers them to develop a more emancipative, critical relationship not only toward knowledge, but also towards the knowledge that is produced in our small world.

Seyfi Kenan

Jewish and Islamic Law: A Comparative Study of Custom during the Geonic Period

Gideon Libson

Cambridge: Harvard Law School, Islamic Legal Studies Program, 2003.

xi+367 pp.

Jewish and Islamic legal systems separately have attracted wide interest from scholars, but the relationship between them is not a well-researched area of

study. Beginning with Abraham Geiger's publication of *Was hat Mohammed aus dem Judentume aufgenommen?* in 1833, scholars in Western academe have observed parallel points between Judaism and Islam, interpreting the relationship in terms of the latter (i.e. Islam) borrowing from the earlier. In the present volume, Gideon Libson challenges this long-established view of the relationship and examines bilateral influence of Jewish and Islamic law in the geonic period (7th – 11th century) in the case of custom, concluding that Islamic law has affected Jewish legal practice in certain aspects.

The age of geonim is an important historical period for both Jewish and Islamic law. It is traditionally regarded as the phase of Rabbinic Judaism that followed the talmudic era. The geonim transformed legal material of the Talmud to a legal system that was applicable to actual cases. This period constitutes a transitional stage in the codification of Jewish law. The geonic age coincides with the birth of Islam and early development of Islamic disciplines and the formation of legal and theological schools.

Immediately after the emergence of Islam as a political power, the Jews became subjects of Muslim rule, in which they were treated as “protected people” (*ahl al-dhimma*) due to the Qur'anic concept of *ahl al-kitab*. As a religious minority, the Jews sustained their religious and legal autonomy. It should be noted here that the talmudic principle *dina de-malkhuta dina* (“the law of the state is law”) provided geonim some freedom to produce legal innovations and new interpretations of traditional Jewish law in accordance with the legal system of the host society.

Libson's work consists of seven chapters. In the first chapter, as an introduction to the subject, he presents a brief account of the history of comparative research in Jewish and Islamic law and points out some problems about conducting a comparative study of the two legal systems.

In the second chapter various functions of custom in geonic Jewish law are studied. The concept of *minhag* and its relationship with other legal concepts constitutes the core of this chapter.

In the third chapter, Libson turns to the Islamic concept of custom and examines the operation of custom as a legal tool and its relation with other formal sources in Islamic law.

In the fourth and fifth chapters Libson focuses on the nature of Jewish – Muslim relations in the geonic period and on the main channels of mutual influence. Here Libson discusses the extent that the Jewish minority had knowledge of

Islamic religious and legal practices. He argues that custom in geonic period played a dynamic role in the adaptation of Jewish law to new social, economic and political circumstances.

After discussing the theoretical and historical aspects of Islamic influence on geonic Jewish law Libson turns to demonstrate this phenomenon in two cases in the final two chapters. In the sixth chapter, he deals with the oath of destitution in which “a debtor admits to his debt but swears that he has no means of payment.” Libson sees that the oath in the form of “I have no means” is a geonic innovation based on practice of *yamin al-‘adam* in Islamic law. This can be taken as an example of Islamic influence on Jewish legal practice in court procedure and financial matters, two major channels of influence in Jewish – Muslim relations.

The other prominent channel of influence, i.e. family law, is examined in the next chapter. Libson construes the geonic practice of estimated *mohar* as an example of legal innovation through the use of custom that originated from the Muslim practice of *mahr mithl*.

In this valuable study, Gideon Libson demonstrates his acquaintance with both Jewish and Islamic law and the book is the result of fine scholarship. He supports his arguments in the text with extensive reference in the endnotes to legal literature of the period. The present volume corresponds to a new phase in comparative research in Jewish and Islamic law, which certainly will contribute not only to a better understanding of the historical relationship between Judaism and Islam, but also to the establishment of a peaceful future for both faith communities.

Mahmut Salihoğlu

Stolen Honor: Stigmatizing Muslim Men in Berlin

Katherine Pratt Ewing

Stanford: Stanford University Press, 2008. 296 pp.

In *Stolen Honor* cultural anthropologist Katherine Ewing presents a fascinating study of the masculinity of Muslims of Turkish descent in contemporary Berlin. Commonly — and increasingly since September 11, 2001 and the murder of the Dutch filmmaker Theo van Gogh — the Muslim man in Germany is considered to be iconic of tradition (i.e. not ‘modern’), of patriarchy and the oppression