

# Diachronic and Physical Characteristics of Doctrinal Production in Moroccan Administrative Law

**Siyouri Hind**

Doctor in Public Law and Political Sciences, Mohamed Bnou Abdellah University, Fez, Morocco

## Abstract

Modern Moroccan administrative law and its techniques are the direct result of the intervention of the French protector. However, the fact of French inspiration does not always mean that the case law is transposed as it was pronounced in its country of origin; adaptations are often necessary in order to allow its application in the Moroccan context. This study is guided by the concern to highlight the diachronic and physical characteristics distinguishing Moroccan doctrinal production based on genealogical and archaeological methods. The research revealed that the production of doctrinal ideas accompanied the events experienced by the process of judicial organization in Morocco. Which explains the sensitivity of the authors to the socio-political context. The doctrine in fact turns out to be indissolubly constituted by both *ratione personae* and *ratione materiae*. Its freedom implies almost total freedom of writing, unless possible obstacles linked to the need to find a publisher are considered.

**Keywords:** administrative law, doctrine, doctrinal genres, supports, characteristics, diachronic, authors, criteria.

## 1 Introduction

Administrative law is certainly generally presented as fundamentally of jurisprudential origin. However, this does not indicate in a satisfactory manner the capital role that the doctrine played in the formation and evolution of this praetorian law. Doctrine and jurisprudence constitute in principle a theoretically inseparable couple, but often disunited. Doctrine spurs jurisprudence, and the latter finds itself stimulated by the former; jurisprudence is sometimes likely to inflame doctrine by calling it into question and provoking doctrinal controversies.<sup>1</sup> This is precisely what the history of French administrative law, a source of inspiration for Moroccan administrative law, reveals: doctrinal intervention has been revealing in ordering, purifying, refining the elements provided by positive law.<sup>2</sup> The inspiration of Moroccan administrative law from its French counterpart results from the fact that the latter is often perceived as an ideal type in its relationship to foreign administrative laws.<sup>3</sup> The Moroccan judge, being confronted with practically the same problems in the cases submitted to him, often

---

<sup>1</sup>See BARRAUD, B., *Jurisprudence and doctrine*, L'Harmattan, 2017.

<sup>2</sup>SEILLER, B., "Foreword". In: *The Doctrine in Administrative Law*, French Association for Research in Administrative Law, Litec, Debates and Conferences, 2010, pp. XI-XII.

<sup>3</sup>NEYRAT, A., *The relationship between national administrative law and foreign administrative laws: the cases of France and Spain*, Thesis in Law. University of Bordeaux, 2016, p.3.

considers the French judge who had taken a few steps forward in his solutions as an example or model. He certainly finds in French jurisprudence and doctrine a reassuring environment which offers him ready-made and orderly solutions giving his decisions the immunity of a consecrated authority. However, the principle of French inspiration does not mean that the case law solutions are transposed as they are; certain adaptations seem to be essential to make their use possible.

Indeed, Morocco declared upon obtaining its independence its intention to maintain the French administrative system. However, the overhaul of its various sections seemed inevitable.<sup>4</sup> The fact of continuing to imitate the French model,<sup>5</sup> despite the restoration of its sovereignty, was both a constraint but also a considered choice. It is a constraint because Morocco was not able to immediately amend existing legislation with completely new legislation, since this behavior could lead to disruptions of the Moroccan administrative system. It is by reasoning like this that “*at independence, Moroccans found themselves obliged to invest step by step in this administration built without them and even against them*”.<sup>6</sup> It is also a considered choice because it was not possible to wipe out this system or return to the administrative structures that existed before the protectorate.<sup>7</sup>

It therefore emerges that despite the impregnation of doctrine and jurisprudence, both through the French jurisprudential and ideal corpus as well as through the Islamic framework and the specificities of Moroccan society, technicians and practitioners of administrative law often show a trend in favor of autonomy vis-à-vis the French judge via the adoption of a realism characterized by prudence and progressive evolution as well as the taking into account of national specificities having no analogue in France.<sup>8</sup>

Having the ambition to meet the criteria of modern law and to conform, at the same time, to the requirements and specificities of Moroccan society relating to religion and culture, the formation and evolution of Moroccan administrative law certainly have specific characteristics. Indeed, administrative law does not develop in a vacuum but rather within an institutional framework beholden to the dominant political culture. This constitutes a context in which the scope of the doctrine is relative. The latter cannot, for its part, escape the influence of the context in which it operates.

With this in mind, it seems judicious to treat this theme via the adoption of two methods: The first is genealogical intended to reconstruct the genesis of the doctrine of administrative law in Morocco from the colonial era until today. The second is of an archaeological type, its objective is to bring to light the latent structures characteristic of the doctrinal production of each period. Something modestly close to epistemology in the philosophy of Michel Foucault.<sup>9</sup> It is a question of palpating its specificities linked to the socio-cultural and political registers and repertoires distinguishing the legal ethos of Moroccan administrative law and which may have influenced both its jurisprudence and its doctrine. To do this, research aimed at the material and ideal objectification of the doctrine in administrative law is necessary to relate the characteristics and evolution of this doctrine and its supports. It is therefore a question of

---

<sup>4</sup>FARISSI, M., “Administrative Mimicry in Morocco: the difficult gestation of a Moroccan administrative model”, Review of doctrine and law, n°14, 2013, pp.308-326.

<sup>5</sup> See ROUSSET, M., The Moroccan Administration, its law and its judge 1965-1995, Editions Pumag, 1995.

<sup>6</sup>LAROUI, A., “King Hassan II and the construction of modern Morocco”. In: BASRI, D., BELHAJ, A., ESSAÏD, M.-J., LAROUI, A., ... [and others] (dir.), Building a modern State: the Morocco of Hassan II, Albin Michel, 1986, p. 39.

<sup>7</sup> BUGNICOURT, J., “Administrative mimicry in Africa: major obstacle to development”: French Journal of Political Science, n°6, 1973, pp. 1239-1267.

<sup>8</sup>EL YAAGOUBI, M., The Protective Judge of the administered in Morocco: between mimicry and empowerment: Imp. INFO-PRINT-FES, 2006, p. 32.

<sup>9</sup> FOUCAULT, M., The Archeology of Knowledge, Gallimard, 1969.

highlighting the essential characteristics of doctrinal production in Moroccan administrative law under the protectorate and after independence. The examination of these characteristics raises the need for a taxonomic approach to the supports of doctrinal publications in Moroccan administrative law.

## **2 Chronological and material evolution of doctrinal production in Morocco**

The relationship between metalegal reflection and the formation of administrative law does not seem to be exhausted in relations of immediacy and instantaneous equations. The effects only begin to emerge effectively in longitudinal terms, and this within the framework of a temporality that cannot claim to complete the network of interactions between doctrine and administrative law. In order to respond to this logic, this paragraph will attempt to list the essential characteristics of doctrinal production in Moroccan administrative law under the protectorate and after independence as well as the different phases distinguishing this production.

### **2.1 Historical approach to doctrinal and legal practices in Moroccan administrative law**

The appearance of administrative law is undoubtedly linked to the beginning of the protectorate; it was the result of a prohibition on the courts obstructing administrative action.<sup>10</sup> Several phases have marked its evolution since then<sup>11</sup> constituting benchmarks reflecting the degree of attachment to the idea and the growth of the protection of the citizen against the clumsiness, arbitrariness or abuse of the Administration<sup>12</sup> and explaining the quantitative and qualitative of doctrinal production.

The contribution of the doctrine to the formation of Moroccan administrative law can be considered according to two distinct periods: under the protectorate and after independence.

#### **2.1.1 Contribution of the doctrine to the constitution of Moroccan administrative law during the protectorate**

The recent history of Moroccan administrative law begins, of course, with the arrival of the Protectorate in 1912. Prior to this date, “there was no administrative law in the strict sense of the term”, affirms Abdelaziz Benjelloun.<sup>13</sup> Morocco followed the regime of “Muslim public law”. The administration was not subject to a real legal regime. Only one possibility was allowed to those administered: to file appeals directly with the sovereign against the abuses of his subordinates, hence the function of vizier of chikayat (minister of grievances).

Spanning around forty years, the period of the protectorate was quite prosperous on a doctrinal level, better still it was preponderant in Moroccan legal history. We will limit ourselves here to exposing the evolution of two areas representing in fact the two centerpieces of the subject: administrative responsibility and recourse for excess of power.

In terms of liability, the doctrine of the time had played the supporting role assigned to it<sup>14</sup>, since the legislator had limited himself to establishing the principle in articles 79 and 80 of the DOC by entrusting

<sup>10</sup> Dahir on the judicial organization, August 12, 1913, articles 79 and 80 of the DOC, August 12, 1913.

<sup>11</sup> 1957: creation of the Supreme Court and institution of the action for annulment for excess of power; 1994: creation of administrative courts in each of the seven economic regions of the Kingdom.

<sup>12</sup>See FISCHER, B., Relations between the administration and those administered in Mali: contribution to the study of administrative law in sub-Saharan African states with a French legal tradition, Thesis for obtaining a Doctorate in Law, University of Grenoble, 2011.

<sup>13</sup>BENJELLOUN, A., Administrative law, Volume I, Dar Nachr El Maârif, 1993.

<sup>14</sup>PRAT, Y., The Responsibility of public power in Morocco. Theoretical and practical study, La Tour printing house, Rabat, 1963;

to the judge any eventuality of 'interpretation. The authors had a great influence on the position ultimately adopted by the judge either by disseminating the court decisions or by criticizing their orientations. André De Laubadère had set the record straight in a very in-depth article, published in the Court Gazette,<sup>15</sup> by providing a perfectly relevant interpretation that the courts ended up adopting.<sup>16</sup>

The question was presented quite differently in terms of the appeal for abuse of power. The action for annulment was prohibited by the Dahir of August 12, 1913,<sup>17</sup> it was only authorized by the Dahir of September 1, 1928, but only to officials of the protectorate regarding the application of their status. The courts had therefore adopted a very favorable position with regard to the citizen.<sup>18</sup> They had found a way to rule on the legality of administrative acts through the exception of illegality. The doctrine had not only exalted the reckless attitude of the judges, but it had established a perfectly rigorous legal basis in the matter.<sup>19</sup>

The period of the protectorate was certainly marked by a high number of articles<sup>20</sup> and judgment notes<sup>21</sup> reflecting positions acquiescing in the case law or criticizing it. However, since the creation of the Supreme Court and therefore since the dawn of the development of Moroccan administrative law, it does not seem easy to identify a plurality of articles or notes analyzing jurisprudential attitudes or providing clarification of a determined question.

### 2.1.2 Scope and evolution of doctrinal production after independence

Following its independence, Morocco adopted a system of judicial control of the Administration very close to that which had been established by the protectorate, distinguished nevertheless by a unity of jurisdiction which certain authors vigorously recommended.<sup>22</sup> With the establishment of the Supreme Court in 1957, administrative law gained new momentum. This date will therefore constitute the starting point for the reflection that we will carry out below.

Establishing an assessment of doctrinal activity in administrative law does not seem to lead to absolutely reliable results. It's about running the risk of groping in the rough. However, such an action can only be credible if it is based on research scrupulously carried out over well-defined periods giving rise to

---

- REGNIER, A., Moroccan administrative litigation, GTM, n° 297, 1927, p.363;

- Louis Rivière, P., note sous CA de Rabat, 2 janvier 1928, Société des Arts marocains, S.1930-11-25 ;

- Monier, R., Traité du contentieux administratif au Maroc, Sirey, 1935, p.137.

<sup>15</sup>DE LAUBADERE, A., "The Foundation of community responsibility in Morocco. The fault or the risk? » GTM n° 923, 1943, p. 25 and GTM n° 926, 1943, p.49.

<sup>16</sup> Court of Rabat, December 9, 1947, Lanepaban, S.1949 -11-24, DE LAUBADERE, A. note.

-Court of Rabat, March 13, 1951, Pichon estate, RACAR 53-54, p. 34.

<sup>17</sup> Article 8 of the dahir of August 12, 1913.

<sup>18</sup> Court of Rabat April 19, 1924, Balazun, Penant 1925 p.50; Cass. crime. January 14, 1928, Foucherot, S. 1929- I- 385 note Louis Rivière. Quoted in: BENABDALLAH, M.-A., "Doctrine and administrative law": REMALD, Current themes, n° 1, 1995, p. 9 et seq., p.3.

<sup>19</sup>DE LAUBADERE, A., Control of the legality of administrative acts by the judicial courts in Morocco, GTM, 1943, p.124;

- LUCHAIRE, F., The Separation of administrative and judicial authorities in Morocco, Penant, 1946, Doctrine, p. 9;

-MESSONNIER, G., Judicial control of the legality of administrative acts in Morocco, RMD, 1949, Doctrine. p.136.

<sup>20</sup> See for example the articles by DE LAUBADERE, A.

- "The Control of the legality of administrative acts by the judicial courts of Morocco": GTM, n° 935, 1943, pp. 121-125.

- "The Foundation of community responsibility in Morocco. The fault or the risk? »: GTM, n° 923, 1943.

<sup>21</sup> RIVIERE, P.-L., Note under C.A.R., of January 21, 1928, Sirey, 1930..

<sup>22</sup>LIET-VEAUX, G., Reflections on the separation of disputes, Revue Administrative., 1956, p.369;

-GROSCHENS, J.C., Reflections on the duality of jurisdiction, AJDA, 1963, p. 538.

- RENARD-PAYEN, O., The Moroccan Experience of unity of jurisdiction and separation of disputes, LGDJ, 1964;

-LUCHAIRE, F., The Separation of Administrative and Judicial Authorities in Morocco, Penant, 1946.

undoubtedly convincing conclusions which we will try to draw out in the following section of this research work. Nevertheless, apart from any value judgment, it seems wise to put forward certain observations.

Starting from 1957, it seems important to distinguish two periods: the one extending from this date until the beginning of the 1970s, marked by a limited number of publications and the other which, since then, distinguished, for its part, by a relative multiplication of work. The majority of judgments rendered by the Supreme Court in administrative matters were regularly published for eight consecutive years and at the same time certain explanatory comments sometimes bore no signature allowing them to be classified as coming from an independent doctrine, but nevertheless had a significant usefulness to the extent that they gave rise to a certain systematization of the decisions of the new jurisdiction. These comments aimed neither to support the judge's position nor to criticize it, but above all to establish the link between the decision subject of the judgment and the solutions of the cases dealt with previously.<sup>23</sup>

Furthermore, we can emphasize that if the period of the protectorate saw the publication of a fairly large number of works,<sup>24</sup> that of 1957 to 1970 was marked on the contrary by rare publications<sup>25</sup>. This is due to the interest shown by researchers, during the protectorate period, in the Moroccan system as a foreign system derogating from French law and characterized by an interesting originality, since it was a system established by the metropolis. Since independence, this interest was shaken. It is now up to the nationals to take over.

The 1970s were especially distinguished by academic research publications. Moroccan doctrine began to come to life. The research was particularly interested in administrative organization and, to a lesser extent, litigation, which only gained momentum on the eve of the 1980s.<sup>26</sup> The 1970s were marked above all by the three editions of Moroccan administrative law by Michel Rousset covering all of the subject matter. Since 1980, we can highlight the proliferation of a significant number of academic works supported in Morocco and France relating to various aspects of administrative law as well as an abundant number of manuals published by teachers of Moroccan universities. As a result, the repertoire of Moroccan doctrine currently has significant capital which would benefit from being prolific. The fundamental observation that can be made here is that doctrinal reflection tends to sink into details, thus reflecting one of the main characteristics of the Moroccan legal mentality identified by Jacques Berque and causing the authors to be very interested in concrete legalism without being pay attention to general and formal rules.<sup>27</sup>

In many cases, the judge finds himself in situations which allow him not to apply to the letter the legislation and regulations in force, but to proceed with interpretations that are certainly completely objective and which may vary from one judge to another, in other words, interpretations subject to discussion.

---

<sup>23</sup>BENABDALLAH, M-A., "Doctrine and administrative law", op.cit., p.5.

<sup>24</sup>MONIER, R., *Treatise on administrative litigation in Morocco*, op.cit.;

- MICHEL, A., *Treatise on administrative litigation in Morocco*, PUF, 1932;

- DECROUX, P., *Municipal life in Morocco*, Thesis, Lyon, 1932;

- DURAND, E., *Treatise on Moroccan public law*, LGDJ, 1955..

<sup>25</sup>PRAT, Y., *The Responsibility of public power in Morocco*, op.cit.;

-RENARD-PAYEN, O., *The Moroccan Experience of unity of jurisdiction and separation of disputes*, op.cit.

<sup>26</sup>BENABDALLAH, M-A., "Doctrine and administrative law", op.cit., p.9 et suiv.

<sup>27</sup>DESPOIS, J., BERQUE, J., "Social structures of the High Atlas". In: *Alpine Geography Review*, volume 44, n°1, 1956. pp. 211-213.

Furthermore, we can note, but without claiming to generalize, that the contribution of a large part of Moroccan academics often includes articles raising questions already developed in a dissertation or thesis work. As a result, the scope of the subject is weakened, to the extent that it takes on the appearance of a repetition or of interventions hastily prepared during conferences and whose work is not published or are only published one or two years after their organization. Indeed, we cannot claim to elucidate certain characteristics of the doctrine of Moroccan administrative law without highlighting the main supports serving as a background on which several doctrinal works have seen the light of day.

### 3 Supports of doctrinal production: modes of expression of doctrine

These are different types of doctrinal writings, these are genres of doctrinal works understood as specific literary forms. It is in fact a question of a notion allowing a categorization of works presenting common attributes. Gender therefore serves to found a classification based on respect for forms. The generic quality of a doctrinal work allows it to be placed in a given genre. Thus, whatever its value or its particularities, the work is incorporated into a distinguishable and identifiable whole. To delimit this paragraph, it seems rigorous to tackle a point likely to shed light on the subject by reporting on an essentially taxonomic problem. It may then be wise to consider how the doctrine classifies its literary production (A), and thereby lay the foundations for a reflection on the criteria for the hierarchy of doctrinal production (B) and therefore its contribution to knowledge and possibly the construction of the legal system.

#### 3.1 Taxonomy of doctrinal supports

The doctrine is expressed through various media where ideas and doctrinal constructions are exposed. The doctrine, thus understood, is home to varied works developed mainly by academics, notably law professors, but also by practitioners, lawyers or magistrates. These works are often classified in a free and imprecise manner.

##### 3.1.1 Determinants of the attribution of the doctrinal genre to a literary production in administrative law

It is a question of defining the parameters for attributing the quality of a doctrinal genre to a literary production in administrative law. A genre is doctrinal when it includes works developed by the doctrine. Defining the notion of doctrinal genre therefore refers directly to the definition attributed to the doctrine.<sup>28</sup> In this case, it is a single question approached a little differently. The doctrine being composed of authors and works, being interested in the works is being interested in the authors and vice versa. Reflecting on literary forms therefore provides a decisive point of view for understanding the doctrine. Furthermore, Common law historian John Baker states that “*The literature produced by a profession is often the clearest guide to the state of its intellectual development*”.<sup>29</sup> Indeed, doctrinal genres do not only designate works but also functions of the doctrine, since generic classifications allow the inventory, the hierarchy and therefore the meaning of the productive work of the doctrine.

<sup>28</sup> See MACDONALD, R-A., “The Nature, the role and the influence of university doctrine in Quebec administrative law”: *Les Cahiers de Droit*, Vol. 26, no. 4, 1985, pp. 1071-1081.

-SCHAEFFER, J-M., *What is a literary genre?*, Seuil, 1989, p. 8.

<sup>29</sup>An introduction to English Legal History, Oxford University press, 4th ed. 2007, p. 176, cited in: HAKIM, N., “Doctrinal Genres”. In: *Doctrine in administrative law*, French Association for Research in Administrative Law, Litec, Debates and Conferences, 2010, pp.147-168.

From this perspective, it should be noted that doctrinal genres are likely to be the subject of a double reading grid determining their classification and their importance.<sup>30</sup> The first of these turns out to be quite formal, since a work can belong to the generic system as long as it fully meets the elementary conditions of the genre to which it claims. It is thus assumed that the author can only be part of legal doctrine on the condition of respecting conventions, in other words, minimum standards. We cannot therefore dismiss this authority of genres in legal literature, particularly in that it is imposed on young authors or more generally on those who do not yet have “an author’s name”. While the second is more complex, because it involves the quality of the work and that of the author both at the stage of publication and during the reception of the text by the doctrine. We are therefore witnessing a shift from the authority of genres to the authority of the work and consequently to that of the author.

The status of the text produced, that is to say its generic quality, is therefore identified by the status of the author as well as the qualities of the work, in other words, to the objective question of doctrinal genre. The doctrine adopts a response based not only on formal and conventional or even editorial criteria but also fully integrating the authority of the author. It therefore seems natural that the doctrine, being an authority, permanently combines the qualities of the work, of the signatory of it and of the genre to which it belongs to ultimately always return to the question of the author. It is therefore possible not to fully adhere to the thinking which considers that:

*“Legal doctrine is not defined *ratione personae* as a body, an entity or a community, but above all *ratione materiae* by the notion of doctrinal writing.”*<sup>31</sup>

The doctrine in fact turns out to be indissolubly constituted both *ratione personae* and *ratione materiae*. Its definition simultaneously includes works and authors. Doctrinal genres thus participate in this continuous confusion generated by the complexity of the doctrinal phenomenon itself. A particular genre may then be able to shed light on the functioning of this generic system relating to legal doctrine.

### 3.1.2 Characteristics of doctrinal classifications

The classification of doctrinal genres remains imprecise and free (a). Furthermore, we highlight the advent of particular doctrinal genres accompanying technological evolution (b).

#### a. Free and imprecise classifications

The creation of doctrinal works is conditioned by belonging to a specific genre. The latter specifies, at least in part, the construction by the author and the reaction of the reader in whom an expectation has been provoked. The author who develops a manual or a final note therefore creates his work taking into account both the “recipe” and the constraints of the genre and the expectations in question. His culture born from his legal training and his attendance at law faculties allows him to know the particular characteristics of this or that doctrinal genre. The same goes for the reader, who has most often received identical training, shares a similar culture with the author and is very often himself part of the doctrine.<sup>32</sup> The audience for doctrinal genres is likely to be divided into three main categories: the doctrine itself being the first reader of its own works, the students and the practitioners, the “general public” is in fact far from being the classic and natural target of this extraordinary literature.

---

<sup>30</sup>See HAKIM, N., *ibid.*

<sup>31</sup>MORVAN, P., “The Notion of doctrine (about the book by Messrs. Jestaz and Jamin)”: *Dalloz* n°35, *chron.* 2005, p. 2424.

<sup>32</sup> HAKIM, N., “Doctrinal Genres”, *op.cit.*, pp.147-168.

The generic classification of doctrinal supports will make it possible to distinguish several types of writings:

- **General books** produced in one or more volumes.<sup>33</sup> There are, in fact, directories which are a thematic presentation of the subject with an essentially practical vision. There are also treatises which analyze it by providing a dogmatic and synthetic presentation. The manuals and handbooks are built on the same basis, but with more educational concerns and an effort to simplify.
- **Specialized books** that focus on limited themes. These are doctoral theses or monographs with a more utilitarian aim, intended mainly for practitioners.
- **One-off writings** in the form of articles, studies or columns of a few pages devoted to a particular theme generally relating to legal or jurisprudential news, or case law notes commenting on a court decision. The articles are presented in journals, collective works, Mixtures or conference proceedings.
- **The commentary on case law** takes the form of a judgment note, a chronicle or even observations. Jean-Claude Venezia, André de Laubadère and Yves Gaudemet distinguish eight categories of doctrinal works.<sup>34</sup> First of all, there are “treatises and manuals” among which three subcategories can be distinguished: old works, updated works and reference manuals. Then appear the general works or “*fundamental works*”.<sup>35</sup> They are followed by a very flexible category: case law encompassing both the Lebon Collection and the major judgments, but at the same time the manuals or treatises on administrative litigation. Then come the collections with further on the collections of studies (the mixtures), the collections of jurisprudence and texts, the “journals” accompanied by the “periodicals” and finally, the directories and the encyclopedias.

It is thus a question of simple classifications whose objective is mainly educational. Other authors are more systematic, such as François Terré, for example, who suggests identifying among doctrinal works academic books, practical books and finally doctrinal books strictly speaking having a “scientific” nature.<sup>36</sup> However, despite the explicit nature of the criterion of distinction adopted by this author, the content remains concise. Furthermore, Jean-Luc Aubert divides, for his part, the works of doctrine between “general books” in one or more volumes dedicated to a given branch of law comprising multiple genres in this case, directories, treatises, manuals and precises or courses, “specialized books”, thesis or monographs and finally “one-off writings”, articles, chronicles, notes or observations.<sup>37</sup>

This brief and imperfect presentation already calls for two remarks. It seems to approve the vision of those who believe that doctrine is only formed by free individuals freely classifying doctrinal production and discarding any controversy relating to the doctrinal entity.<sup>38</sup> Freedom of doctrine presupposes almost total freedom of writing, unless we take into account possible limitations brought about by the requirement to find a publisher, notably peer-reviewed journals which, although they provide an element of security, the element of subjectivity is not lacking. Very contrasting assessments of the same article

---

<sup>33</sup>BENABDALLAH, M-A., Contribution to the doctrine of Moroccan administrative law, REMALD, Coll. “Manuals and University Works”, n°77, Volume I and II, 2008.

<sup>34</sup>VENEZIA, J-C., DE LAUBADERE, A. and GAUDEMET, Y., Treatise on administrative law, LGDJ, 11th ed. 1990, vol. 1, pp. 22-25.

<sup>35</sup>BEAUD, O., “Does the work of Gaston Jèze signify a withdrawal of French publicist doctrine towards legal technique? », Jus Politicum, n° 11, 2013, pp. 1-36.

<sup>36</sup>TERRE, F., General introduction to law, Dalloz, 5th ed. 2000, no. 237, p. 263.

<sup>37</sup>AUBERT, J-L., Introduction to law and fundamental themes of civil law with documentary appendix, Armand Colin, 9th ed. 2002, pp. 184-185.

<sup>38</sup>JAMIN, CH., “The French Doctrinal Entity”, Dalloz collection, Dalloz, n°22, 1997, pp.167.



may thus appear from the members of the reading committee. The only guarantee that collegiality provides is that the publication is not the result of a single subjective assessment. Literary people speak of the “para-text” which is for them as important as the text itself. This includes the preface and the quality of the author.<sup>39</sup>

Genres are in fact modes of expression of doctrinal opinions. The latter being made up of ideas and individuals, genres in this sense only represent a container for the thought it generates. It is therefore a question of form which is perhaps not of much importance. On the other hand, it seems rigorous to note that if the doctrine takes on the character of an entity or at least if it is subject to implicit or explicit rules, we cannot exclude it for doctrinal genres. This does not prevent us from noting that the sober and sometimes approximate character of the classifications emanating from certain jurists who are fond of taxonomies and semantic rigor may seem surprising, unless we consider this as a logical consequence of the aforementioned remark admitting that individuality and Doctrinal freedom presupposes the absence of constraints and consequently of any classification presenting the risk of any normativity.

Philippe Jestaz and Christophe Jamin<sup>40</sup> demonstrate in their book devoted to the doctrine a slightly different vision in terms of generic classification. These authors distinguish five doctrinal genres. First comes the archetypal figure of the treatise which combines educational, theoretical and practical perspectives. It is a work of construction and systematization which generally characterizes legal literature. Then comes the commentary on jurisprudence, a genre in which we can distinguish the judgment note, “*free and detailed but nevertheless constructed commentary*”,<sup>41</sup> the short chronicle acting as a synthesis, the briefer observations in general, and finally, the conclusions of the commissioners of right and law. For these authors, the third doctrinal genre is commentary on the law, a literary type currently in decline.<sup>42</sup> In fourth position are the monographs encompassing two subcategories, notably the articles or chronicles forming “*the very basis of the doctrinal phenomenon, if the treatises occupy the summit*”<sup>43</sup> and the thesis considered as the “most scholarly books, those which make advance thought in a spectacular way”.<sup>44</sup> Finally, the fifth genre is represented by books of reflection on positive law called: essays.

### A. Particular genres

There are more and more sites, physical and virtual places for reflection on the law and even its development inviting doctrine to play a strategic role. However, it can only fulfill it on the condition of not sticking to the Kelsenian conception which refuses any method of interpretation aimed “simply” at filling the alleged gaps in the law.<sup>45</sup> These are lectures courses, conferences or aggregation lessons and partially new genres linked to electronic media and the Internet. Lessons are provided orally. However,

---

<sup>39</sup>HAKIM, N. underlines in: *The Doctrine in administrative law, debates*, French Associations of Administrative Law (AFDA), n°3, Litec, 2010: “in the case of an article sent to a reading committee which, after examination, refuses it. The author then calls to express his astonishment. His interlocutor asks him on this occasion his position and he indicates that he is a professor. He is then told that there is an error and that his article is accepted... in fact, this anecdote is not exceptional. The “para-text” is essential in the reception of the text”.

<sup>40</sup>JAMIN, CH. and JESTAZ, PH., *Doctrine*, Dalloz, coll. “Methods of law”, 2004, p. 185.

<sup>41</sup>JAMIN, CH. and JESTAZ, PH., *Doctrine*, Dalloz, op.cit.

<sup>42</sup>HAKIM, N., “Doctrinal Genres”, op.cit., pp.147-168.

<sup>43</sup>JAMIN, CH. and JESTAZ, PH., *Doctrine*, op.cit., p. 185.

<sup>44</sup> Ibid., p. 186.

- See also in this sense CARBONNIER, J., *Civil law. Introduction*. People, PUF, 18th ed, n° 150, updated 1990, pp. 261-262.

<sup>45</sup>DE GAUDUSSON, J-B., “What status for French-speaking African doctrine? », In: HOURQUEBIE, F. (dir.), *Doctrine in the French-speaking African space*, Bruylant, 2014, pp.7-14.

their trace can sometimes be maintained in the form of “handouts” and subsequently published. The Internet is also a considerable source of information, but what we are looking for is raw material, raw material. This in no way prejudices the value of what we find this way. It certainly gives access to what Frank Moderne and Pierre Delvolvé usually call “judgment nonotes”,<sup>46</sup> but also to notes, articles, works of a completely different interest. Indeed, the Internet does not change anything about the problem of the unequal value of works, but it changes everything for access to information, which it makes incredibly easier. In short, raising the question of genres authority may seem surprising. Philippe Malinvaud underlines in this context that: “*The doctrine engages in various literary genres, which are published by specialized publishers that everyone can classify as they wish*”.<sup>47</sup> Nevertheless, the curious reader can wonder and guess the criteria used by the doctrine in order to characterize certain possible classifications.

### 3.2 Classification criteria

The aforementioned classifications encourage us to examine the criteria on which the doctrine is based to distinguish the genres and thus hierarchize the doctrinal literature. Apart from any exhaustiveness, at least ten criteria can be identified.

#### a. Formal or material criterion.

This involves differentiating between books on the one hand and texts integrated into a book or introduced into a periodical on the other hand. Doctrinal genres can thus be easily identified according to the form of the writing, book or article, but also individual work or collective book. This criterion nevertheless appears relatively indeterminate for understanding doctrinal genres, particularly due to the increasingly high number of collective works, whether written by several hands or comprising a set of distinctly identifiable individual works. If writing a book, whatever its form, requires an incomparable investment and commitment, with the exception of articles, notes or other non-autonomous texts, it does not seem feasible to identify such taxonomies other than a description limited to the form of the texts and therefore unsuitable for taking their nature into account.

#### b. Volume of texts

The format of works is often used by the doctrine to identify them. There are thus genres comprising large works and others small ones, such as the treatise and the precise. This criterion is important for several reasons linked mainly to the various trends which arise in this area. First of all, there is an evolution towards reducing the volume of teaching works, in particular the book by Dean Abdelaziz Benjelloun “Administrative Law”, an educational work intended mainly for the university public, presented in three volumes: “Administrative organization”, “Administrative action” and “Administrative justice”, which precedes that of Abdallah Harsi, “Administrative organization” consisting of 176 pages.<sup>48</sup>

The Treatise on “Administrative Litigation in Morocco”<sup>49</sup> by André Michel drawn up during the

---

<sup>46</sup>See Work of the French Association for Research in Administrative Law on “The doctrine in administrative law”, n°3, Colloquiums and Debates, Lexis Nexis, Litec, 2010, p. 172.

<sup>47</sup>MALINVAUD, P., Introduction to the study of law, Litec, 12th ed. 2008, no. 211, p. 173.

<sup>48</sup>HARSI, A., Administrative Organization: REMALD, Collection “Manuals and University Works”, n°69, 2006.

<sup>49</sup>ANDRE, M., Treatise on administrative litigation in Morocco, Paris, PUF, 49, boulevard Saint-Michel, 1932. one vol. in-8 (17 x 27) of 1042 pages in two volumes.

protectorate, the period of installation of administrative law in Morocco, is composed of 1042 pages in two volumes, while the book by Michel Rousset<sup>50</sup> “Moroccan Administrative Law” published in 2003 has 880 pages. Long-term work, even lifelong work, is gradually becoming rarer. In this sense, we recall the work of Charles Demolombe or the three volumes of Planiol coinciding with the twenty-nine volumes of Baudry-Lacantinerie and shortly preceding the three then five volumes of Duguit's treatise. It should therefore be noted that treatises have become smaller today and those produced in a single volume are the most frequent.<sup>51</sup> This trend, however, seems to harbor a double question linked both to editorial constraints and to the recipients of the genre in question. Concerning the recipients, it is inevitable that in terms of volume, the practitioner demands detailed and precise information which, on the contrary, the student fears and flees. Also, directories or treatises addressed in particular to practitioners<sup>52</sup> are increasingly distinguished from the flowering of university precises and mementos.

### c. Purpose of the work

It makes it possible to separate monographs which can be defined as “complete and detailed studies aimed at a precise and restricted subject”<sup>53</sup> and summary books which are in particular treatises or manuals. It is, in fact, an easily usable classification method. Many books use it to present a bibliography divided into “general books” and “specialized books” to which periodical studies are sometimes added. It therefore seems that the observer remains unsatisfied to the extent that it is necessary to agree on this specialization which tends to become more and more narrow giving a chimerical character to the criterion. Furthermore, the category of monographs remains too broad, simultaneously including judgement notes and thesis, in-depth articles and reports. Therefore, it seems that the convenience of this distinction cannot convince of its practicability.

### d. Essence or function of the work

This involves making a dichotomy between the didactic, theoretical and practical genres. This taxonomic work allows, in addition to the differentiation of types of work according to a nature easily understandable by the entire scientific community, even outside the generally restricted circle of lawyers, to clearly understand the author's approach. As a result, a conceptually explicit divide is likely to be made between scientific, educational or popular works and finally professional works. Thesis, essays and in-depth articles contained in journals, conference proceedings or mixtures obviously constitute scientific media. This categorization is based on the relatively close proximity of the genre of doctrinal work to practice and consequently to positive law. Philippe Jestaz and Christophe Jamin<sup>54</sup> believe that the work becomes theoretical, scientific, at the risk of losing its legal legitimacy as the distance becomes greater with positive law. However, despite the rationality of this distinction, it remains ineffective since literature is vigorously permeated by the propensity of numerous works to combine scientific, didactic and practical characteristics. The case of the treaty illustrates this tendency<sup>55</sup> to want to do scientific work by building globalizing systems while stating opinions and suggestions

---

<sup>50</sup>ROUSSET, M., Moroccan administrative law, La Porte, 6th Edition, 2003, 880 pages.

<sup>51</sup>See HAKIM, N., “Doctrinal Genres”, *op.cit.*, pp.147-168.

<sup>52</sup> Dean CARBONNIER, J. cites the “major treatises” in fourteen volumes which are intended for practitioners and contrasts them with the condensed treatises in three volumes intended for students.

<sup>53</sup> Alphabetical and analogical dictionary of the French language, Le Petit Robert, ed. 1984.

<sup>54</sup>JESTAZ, PH., JAMIN, CH., *Doctrine*, *op.cit.*, p. 186.

<sup>55</sup>*Ibid.*

which may be in confusion with the current law, and this within the framework of presentations of the law intended for the training of both students and practitioners. In short, if we admit that the directories remain intended for practitioners and that the theses are written and formatted in an academic and therefore mainly scientific framework, we would not be able to classify the vast majority of journal articles, columns or even judgement notes whose objectives are multidimensional. It indeed seems rigorous to resort to a fifth criterion based on a taxonomy of genres according to their readers and their possible editorial success.

#### **e. Recipients of doctrinal genres**

The point is not to focus on the question of the bookstore success of this or that genre; on the other hand, it seems appropriate to formulate an observation regarding the “users” of doctrinal genres. In this context, we emphasize the relativity and lack of tightness of doctrinal genres from the point of view of these “users”. It is indeed necessary to note not only the lack of readability of the genres for those who do not know in advance where to look for information, in other words those who are not already a lawyer experienced in deciphering of legal literature given that many genres are not clearly intended for this or that audience, but also the fact that readers of genres evolve over time. Indeed, the doctrine holds the title of privileged reader of its own works. It is therefore clear that this criterion could no more than the previous one establish a clear taxonomy of doctrinal genres, unless we only take into account the most obvious categories of works, such as micro-revision manuals or directories, although we still need to agree on the doctrinal capital gain that the latter can bring.

#### **f. the time factor**

Periodicity indeed seems to form a judicious reason for classifying doctrinal products. The chronicle, for example, is part of a temporality distinct from the long-term work such as the thesis or again the treatise which tirelessly remains an inescapable genre. Quick information, chronicles and other legislative and jurisprudential summaries thus occupy a significant place in editorial production. The prescription of works is a question which therefore arises acutely and this argument can be a convincing element of taxonomy differentiating the literature of the moment and that of duration, as indeed between up-to-date literature and that which is out of date, even if it means sorting according to the posterity of the works. It is believed that this classification can still constitute a source of confusion to the extent that the proliferation of successive editions, updates and new collections allowing publishers to appear in bookstore fronts, tends to make textbooks remarkably ephemeral works, while certain chronicles tend to form a doctrinal corpus going well beyond the development and monitoring of current events, something which in fact implies highlighting the thorny question of “*time to think about the doctrine*”.<sup>56</sup> The time for reflection in some way poses a major challenge: that of the need to quickly find continually renewed and condensed information, which obviously constitutes the task of practitioners or students...

#### **g. Title of the work**

When it comes to the titles of works, the categorizations seem classic, even explicit. Far from being disappointing, it should nevertheless be noted that these titles, these useful labels, such as course, summary, treatise or even thesis, do not give a clear and real prior vision of the type of work concerned. Consequently, a course may in reality be a real treatise in one case or a simple summary handout in

<sup>56</sup>See GOBERT, M., “Time to think about doctrine”: *Laws* 1994, n° 20, *Doctrine and Research in Law*, pp. 97-106.

another, and a treatise may be the simple republication of a manual which the publisher will have aspired to give it more attraction or of prestige.<sup>57</sup> The criterion only becomes more ambiguous, while the designation “article” takes multiple and varied forms ranging from a few lines of circumstance to a masterful synthesis. There therefore reigns a remarkable freedom in this matter, granting titles the character of a simple element of a larger whole.

#### **h. Ambition of the author and/or publisher**

This is about the ambition of the author and/or publisher combined with certain elements that literary people refer to as “architextuality”<sup>58</sup>: editorial marketing aimed at optimizing the marketing of the “product”, the author’s choice of collection and possibly publisher. When this luxury is possible, the use of a prestigious preface or a “scientific” promotion carried out in favor of the publication, the round table or even the conference are important elements in a possible classification of doctrinal writings. Legal publishing thus constituting an intellectual intermediary which works for the benefit of readers with the help of authors plays a primordial role here insofar as it largely contributes to identifying doctrinal genres, if only by defining without ceases collections and formats for commercial purposes. Furthermore, this criterion ensures a better understanding of the interest of mixtures, for example, as a singular category of books strictly related to multiple factors among which it is possible to isolate the target audience, the number and the quality of the contributors or even the publisher to the point that it is not easy to speak of mixtures for certain works which aim to pay homage to a master.

#### **i. Academic requirements**

This involves verifying whether or not the doctrinal work meets academic requirements. In fact, the thesis resembles the essay in this sense. It must meet important requirements relating to gender and conditioning the pursuit of a possible career, even if it is understandable to consider that a thesis must in its own way be an essay and that the opposite is also possible. The normativity of the genre concerned seems to be accentuated by the popularization of higher education, certainly leading to the reproduction not of content but undoubtedly of processes and the reduplication of a certain formalism. This also leads to questions about the formal conditions or, more precisely, the definitions of the genres in question. However, with the exception of the judgment note, such definitions hardly seem to be possible, in other words, the doctrine is not sufficiently unanimous to identify such standards.

#### **j. Quality**

The quality of the work cannot represent an essential element of the generic system, because a manual, for example, can be good or bad without this leading to any modification of its genre. It is important, however, to emphasize that doctrinal classifications use this reasoning by distinguishing the categories of “fundamental books”, “classics” or “great treatises”. The taxonomies suggested thus move unequivocally from the form to the substance of doctrinal literature, and lead us to question the relationship of genre to quality. The latter can in fact constitute a value judgment relating to the various genres themselves. Some of them are more or less appreciated and their position in the hierarchy varies both historically and depending on the disciplines and even the personal choices of the members of the

---

<sup>57</sup>JESTAZ, PH., JAMIN, CH., *Doctrine*, op.cit., p. 185.

<sup>58</sup>All the means mobilized aside from the writing itself. See GENETTE, G., *Introduction to the architext*, Coll. Poetics, Editions du Seuil, 1979, pp. 80-81.

doctrine. It should also be noted that this quality can be understood not only as that of the genre, but also as that of the work and the author.<sup>59</sup> In short, it is to be deduced that the production of a given author can belong to a given doctrinal genre as long as three conditions are met, generally linked to the real supposed or potential doctrinal quality of the author, to the acceptance of the writing by a publisher or an editorial body and its correspondence to this or that traditional genre, which can constitute a real challenge for the dissemination of doctrinal reflection.

## Conclusion

It should be noted that since the end of the last decade of the last century, administrative law has benefited from being popularized in the libraries and kiosks of large Moroccan cities, thus accompanying the major events which have profoundly modified the prospects for the evolution of the political and administrative system in Morocco and thus testifying to the sensitivity of the authors to the socio-political context materialized by the creation of administrative jurisdictions, the advent of the new Sovereign King Mohammed VI in 1999 or the constitutional reform of July 29, 2011; these events were behind an ascending judicialization of social relations whose counterpart is now constituted by the administrations whose actions are increasingly open to challenge.

Indeed, the contribution of certain Moroccan academics sometimes consists of articles repeating points already covered. which in some way weakens the scope of the subject which takes on the appearance of a repetition or an intervention hastily prepared within the framework of conferences whose work remains unpublished or is only published one or two years after their organization. However, this does not rule out the existence of a doctrine which develops comments, and which criticizes the law in search of a better legal system. However, this remains marked by a weak taste for theorizing and appears more and more positivist.

It seems that the success of a doctrinal proposition does not depend solely on its scientific quality (alloy of rare metals: logical force, formal elegance, etc.) or on the language used by the author in a purely economic logic, the doctrine represents one resource among others that can be mobilized by market players in a logic of interest: success or failure depends above all on its useful effect. It is indisputable that freedom of doctrine implies almost total freedom of writing, unless possible obstacles linked to the need to find a publisher are taken into account, notably peer-reviewed journals which, despite their secure nature, the element of subjectivity is not lacking. However, if the task presents no difficulty in certain genres, others are much less accessible to those who are devoid of the authority conferred by doctrinal publications, not to mention the effects of specializations which, with some exceptions, restrict this "permit to speak" to certain disciplines.<sup>60</sup>

## Bibliography

1. AUBERT, J-L., Introduction to law and fundamental themes of civil law with documentary appendix, Armand Colin, 9th ed. 2002, pp. 184-185.
2. ANDRE, M., Treatise on administrative litigation in Morocco, Paris, PUF, 49, boulevard Saint-Michel, 1932.

<sup>59</sup>HAKIM, N., "Doctrinal Genres", op.cit., pp.147-168.

<sup>60</sup>See HAKIM, N., "doctrinal genres", op.cit., pp.147-168.

3. An introduction to English Legal History, Oxford University press, 4th ed. 2007, cited in: HAKIM, N., “ Doctrinal Genres”, In: Doctrine in administrative law, French Association for Research in Administrative Law, Litec, Debates and Conferences, 2010, pp.147-168.
4. Alphabetical and analogical dictionary of the French language, Le Petit Robert, ed. 1984.
5. BENJELLOUN, A., Administrative law, Volume I, Dar Nachr El Maârifa, 1993.
6. BENABDALLAH, M-A., Contribution to the doctrine of Moroccan administrative law, REMALD, Coll. “Manuals and University Works”, n°77, Volume I and II, 2008
7. BENABDALLAH, M.-A., “Doctrine and administrative law”: REMALD, Current themes, n° 1, 1995, p. 9 et seq.
8. BENABDALLAH, M-A., “Moroccan administrative litigation Ten years of evolution”, Communication presented at the conference “The contrasting evolution of administrative litigation” organized in Tunis, March 5 and 6, 2004. REMALD n° 54 -55, 2004, p. 7 et seq.
9. BARRAUD, B., Jurisprudence and doctrine, The Harmattan, 2017.
10. BUGNICOURT, J., “Administrative mimicry in Africa: major obstacle to development”: Revue Française de Science Politique, n°6, 1973, pp. 1239-1267.
11. BEAUD, O., “Does the work of Gaston Jèze signify a withdrawal of French publicist doctrine towards legal technique? », Jus Politicum, n° 11, 2013, pp. 1-36.
12. CARBONNIER, J., Civil law. Introduction. People, PUF, 18th ed, n° 150, updated 1990, pp. 261-262.
13. DE GAUDUSSON, J-B., “What status for French-speaking African doctrine? », op.cit., pp.7-14.
14. DE LAUBADERE, A., “The Control of the legality of administrative acts by the judicial courts of Morocco”: GTM, n° 935, 1943, pp. 121-125.
15. DE LAUBADERE, A., “The Foundation of community responsibility in Morocco. The fault or the risk? »: GTM, n° 923, 1943.
16. DE LAUBADERE, A., Control of the legality of administrative acts by the judicial courts in Morocco, GTM, 1943, p.124;
17. DE LAUBADERE, A., “The Foundation of community responsibility in Morocco. The fault or the risk? », GTM n° 926, 1943, p.49.
18. DECROUX, P., Municipal life in Morocco, Thesis, Lyon, 1932;
19. DURAND, E., Treatise on Moroccan public law, LGDJ, 1955.
20. DESPOIS, J., BERQUE, J., “Social structures of the High Atlas”. In: Alpine Geography Review, volume 44, n°1, 1956. pp. 211-213.
21. EL- YAAGOUBI, M., The Protective Judge of the administered in Morocco: between mimicry and empowerment: Imp. INFO-PRINT-FES, 2006.
22. “Legal publishing, a multi-speed market”: La VIE eco, April 22, 2014.
23. FARISSI, M., “Administrative Mimicry in Morocco: the difficult gestation of a Moroccan administrative model”, Review of doctrine and law, n°14, 2013, pp.308-326.
24. FOUCAULT, M., The Archeology of Knowledge, Gallimard, 1969.
25. FISCHER, B., Relations between the administration and those administered in Mali: contribution to the study of administrative law in sub-Saharan African states with a French legal tradition, Thesis for obtaining a Doctorate in Law, University of Grenoble, 2011.
26. GROSCHENS, J.C., Reflections on the duality of jurisdiction, AJDA, 1963, p. 538.

27. GOBERT, M., "Time to think about doctrine": *Laws* 1994, n° 20, *Doctrine and Research in Law*, pp. 97-106.
28. GENETTE, G., *Introduction to architext*, Coll. *Poetics*, Editions du Seuil, 1979, pp. 80-81.
29. HAKIM, N., "Doctrinal Genres", In: *Doctrine in administrative law*, French Association for Research in Administrative Law, Litec, Debates and Conferences, 2010, pp.147-168.
30. HAKIM, N., *debates*, in: *The Doctrine in Administrative Law*, French Associations of Administrative Law (AFDA), n°3, Litec, 2010.
31. HARSI, A., *Administrative Organization: REMALD*, Collection "Manuals and University Works", n°69, 2006.
32. JAMIN, CH., "The French Doctrinal Entity", Dalloz collection, Dalloz, n°22, 1997, pp.167.
33. JAMIN, CH. and JESTAZ, PH., *Doctrine*, Dalloz, coll. "Methods of law", 2004.
34. JAMIN, CH. in his interview on "The French doctrinal model put to the test of history": *Letter from the Law and Justice Mission*, n°26, 2007.
35. Louis Rivière, P., note under CA of Rabat, January 2, 1928, *Society of Moroccan Arts*, S.1930-11-25;
36. LIET-VEAUX, G., *Reflections on the separation of disputes*, *Administrative Review*, 1956, p.369;
37. LUCHAIRE, F., *The Separation of Administrative and Judicial Authorities in Morocco*, Penant, 1946, *Doctrine*, p. 9;
38. LAROUI, A., "King Hassan II and the construction of modern Morocco". In: BASRI, D., BELHAJ, A., ESSAÏD, M-J., LAROUI, A., ... [and others] (dir.), *Building a modern State: the Morocco of Hassan II*, Albin Michel, 1986.
39. Monier, R., *Treatise on administrative litigation in Morocco*, Sirey, 1935.
40. MESSONNIER, G., *Judicial control of the legality of administrative acts in Morocco*, RMD, 1949, *Doctrine*. p.136.
41. MICHEL, A., *Treatise on administrative litigation in Morocco*, PUF, 1932.
42. MACDONALD, R-A., "The Nature, the role and the influence of university doctrine in Quebec administrative law": *Les Cahiers de Droit*, Vol. 26, no. 4, 1985, pp. 1071-1081.
43. MALINVAUD, P., *Introduction to the study of law*, Litec, 12th ed., no. 211, 2008.
44. MORVAN, P., "The Notion of doctrine (about the book by Messrs. Jestaz and Jamin)": *Dalloz* n°35, *chron.* 2005.
45. NEYRAT, A., *The relationship between national administrative law and foreign administrative laws: the cases of France and Spain*, Thesis in Law. University of Bordeaux, 2016.
46. PRAT, Y., *The Responsibility of public power in Morocco. Theoretical and practical study*, La Tour printing house, Rabat, 1963.
47. ROUSSET, M., *The Moroccan Administration, its law and its judge 1965-1995*, Editions Pumag, 1995.
48. REGNIER, A., *Moroccan Administrative Disputes*, GTM, n° 297, 1927, p.363.
49. GARAGNON, J. and ROUSSET, M., *Moroccan administrative law: edition la porte*, 6th edition, Imprimerie El maarif el jadida, Rabat, 2003.
50. ROUSSET, M., *Moroccan administrative law*, La Porte, 6th Edition, 2003.
51. RIVIERE, P-L., Note under C.A.R, of January 21, 1928, Sirey, 1930.
52. RENARD-PAYEN, O., *The Moroccan Experience of unity of jurisdiction and separation of disputes*, LGDJ, 1964.



53. SCHAEFFER, J-M., What is a literary genre?, Seuil, 1989, p. 8
54. SEILLER, B., “Foreword”. In: The Doctrine in Administrative Law, French Association for Research in Administrative Law, Litec, Debates and Conferences, 2010, pp. XI-XII.
55. TERRE, F., General introduction to law, Dalloz, 5th ed. 2000, no. 237, p. 263.
56. Work of the French Association for Research in Administrative Law on “The doctrine in administrative law”, n°3, Colloquiums and Debates, Lexis Nexis, Litec, 2010, p. 172.
57. VENEZIA, J-C., DE LAUBADERE, A. and GAUDEMET, Y., Treatise on administrative law, LGDJ, 11th ed. 1990, vol. 1, pp. 22-25.

- **legal texts**

1. Article 8 of the dahir of August 12, 1913.
2. Dahir on the judicial organization, August 12, 1913, articles 79 and 80 of the DOC, August 12, 1913.

- **Jurisprudence**

1. Court of Rabat, December 9, 1947, Lanepaban, S.1949 -11-24, note DE LAUBADERE, A.
2. Court of Rabat, March 13, 1951, Pichon estate, RACAR 53-54, p. 34.
3. Court of Rabat April 19, 1924, Balazun, Penant 1925 p.50; Cass. crime. January 14, 1928, Foucherot, S. 1929- I- 385 note Louis Rivière. Cited in: BENABDALLAH, M-A., “ Doctrine and administrative law”: REMALD, Current themes, n° 1, 1995, p. 9 et seq.