CHAPTER TWELVE

EARLY KARAITÉ FAMILY LAW

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Family law and questions concerning the personal status of the members of medieval Karaite communities constitute a particularly important dimension of early Karaite halakha. This legal corpus includes rules pertaining to such aspects as the permissibility of marriage, the betrothal, marriage and divorce. Karaite family law played a crucial role in creating and maintaining the distinctive identity and cohesion of the movement. On the one hand, it included several important differences with the mainstream Rabbanite approaches, differences which were argued and justified by the strict application of Karaite legal principles and methods. On the other hand, Karaite family law also had a real impact on the daily life of all the members of the community, including their relationships with their Rabbanite and non-Jewish neighbours. In the light of this importance, various aspects of Karaite family law were subjected to sustained discussions, and underwent a number of changes during the formative period and the ‘golden age’ of the movement, between the eighth and the twelfth centuries, in Babylonia, Egypt and Palestine.

The Sources

The importance of family law both as a case study for theoretical halakhic discussions and for matters of daily life has led most early Karaite scholars to address this issue in their halakhic or polemical works and commentaries. Some aspects of family law, and in particular those in which the Karaites differed from the Rabbanites, were more extensively addressed.

The topic of permissibility of marriage and incest was notably discussed at length in special sections of early Karaite works on law, including ʿAnan ben David’s Sefer Miṣwot (Book of Precepts), Yaʿqūb al-Qīrqsīnī’s Kitāb al-anwār wal-marāqib (The Book of Lights and Watchtowers, A Commentary on the Legal portions of the Pentateuch), and
Levi ben Yefet’s *Sefer Mišwot* (*Book of Precepts*). It was also mentioned in various works and commentaries by such authors as Benjamin al-Nahāwandī, Daniel al-Qīmīsī, Yefet ben ‘Eli and Yūsuf al-Baṣīr. This topic was perceived to be so essential that it also generated a number of dedicated monographs, such as the book on prohibited categories of kinship by Solomon ben David, the Karaite nasi (exilarch), and Yeshu’ah ben Yehudah’s Arabic work known today in its Hebrew translation by the author’s disciple Jacob ben Shim’on, under the title of *Sefer ‘Arayot* or *Sefer ha-Yashar*. These two monographs are polemic in that they criticize the laws of incest, derived from the theory of ‘chain reaction’ or ‘compounding’, known as *rikkuw*, which was upheld by earlier Karaite authorities. The topic of incest also received a great deal of attention among later Karaites, namely in Byzantine legal compendia such as *Gan ‘Eden* by Aaron ben Elijah and *Aderet Eliyahu* by Eliyahu Bashyachi.1

In comparison with this topic, the laws of betrothal and marriage have received far less attention. While the above mentioned later Byzantine authors devoted to these topics specific sections of their legal compendia, early authors dealt with these subjects much less systematically. Most of the essential rules, however, can be gleaned and reconstructed from various discussions in major codes of law, such as those of ‘Anan ben David (in discussions on levirate marriage), Benjamin al-Nahāwandī, Ya’qūb al-Qīrqsānī and Levi ben Yefet.

In addition to these prescriptive, formal or polemical legal writings, an essential source for our understanding of Karaite family law is provided by their practical applications, first and foremost in the form of surviving legal documents. Some eighty legal documents and contracts, dating from the tenth to the twelfth century, have been preserved in various collections emanating from the Cairo Genizah.2

Finally, given the repercussions of family law on daily life, various relevant indications can also be found throughout the private letters and secular documents from the Genizah.

**Permissibility of Marriage**

In a number of mediaeval Karaite contracts the bride is described as “fit to fulfil the aforementioned transaction” (*ha-re‘yah la-qīyyum*

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1 Further on these works and Byzantine Karaite literature → Lasker, Byzantine Karaite Thought → Frank, Bible Exegesis and Halakhah in Byzantium.

2 → Olszowy-Schlanger, Karaite Legal Documents.