Endnotes

*i*

The idea that the Second Temple stood 420 years is from the Babylonian Talmud, Yoma 9a. In fact, modern scholarship tells us that it stood for over 585 years, for its construction was completed in the sixth year of Darius I (Ezra 6:14), which we now know to be 516 BCE, and it was destroyed in 70 CE.

If the date of the destruction of the Second Temple is assumed to be 70 CE (in accordance with pre-­modern and modern calculations), then *Levush Malkhuth*, along with rabbinic literature, places the year of its building 420 years earlier, in 350 BCE, as opposed to 518 BCE. This discrepancy is not surprising, for pre-­modern Jewish knowledge of Second Temple chronology was inaccurate. From this date, we can calculate the Common Era equivalents of the other dates that *Levush Malkhuth* calculates for Second Temple events.

Note that rabbinic calculations date the destruction of the Second Temple to 68 BCE. Because *Levush Malkhuth* is essentially following rabbinic chronology, he may also date the destruction to this date. If so, all subsequent dates that we note in the footnotes should have two years subtracted from them. Nonetheless, we have used the date 70, currently accepted by historians, because it is a more round number, and a difference of two years is hardly significant.

*ii*

Mishna Shabbath 19:6:

**מל ולא פרע את המילה, כאילו לא מל.**

If one has performed a circumcision, but not exposed the circumcision, it is as if one has not performed the circumcision at all.

*iii*

*Note from Tomer Mangoubi*: The author explains that the laws for setting the month were passed down through oral tradition “from the instruction of our master Moses.” This “instruction” is not to be confused with an oral law, which the Rabbanites believe God gave Moses. According to the classical Karaite framework, there are many laws – such as the setting of the month – that were only transmitted orally. Unlike the Rabbanite Oral Law, however, these laws did not originate with the revelation to Moses, and, in fact, they pre-­dated the revelation at Sinai. The Karaite sages viewed these laws as reflecting the historical context in which the Torah was given. In the case of the start of the month, the Israelites already had been setting their calendar through lunar observation, and the Torah incorporated this practice without further elaboration. In a similar fashion, one might expect a modern American work to reference July 4, 1776, without explaining the meaning of the word “July” or how the start of the month was computed.

The following texts reflect the Karaite view that some practices pre-­dated Sinai:

Ḥakham Aaron Ben Joseph, *Sefer Ha-­mivḥar,* Bo El Par‘o, p. 13b:

**עכשיו אם זו המצוה לא נתבארה כמנהג רבי התורות להזכיר 'דבר אל בני ישראל ויעשה כך וכך', לא נאמר שאינה מסורה לכל איש ואיש אלא לבית דין הגדול; כי הכתוב לא פרט בדברים שהיו האבות נוהגים בהם, כגון השחיטה, שסמך מצוה התורות על סבל היורשים.**

Now, this commandment [of setting the month] is not elaborated upon [in the written Torah] as is the custom for most of the commandments, [for which] it [generally] states: *Speak to the Israelites, that they should do such and such.* [Nonetheless,] it should not be said [as the Rabbanites do] that this is because [this commandment] is not given to every person, but exclusively [the duty of] the High Court; for Scripture does not give details regarding matters that the patriarchs [already] practiced, such as [kosher] slaughter, for the commandments to act according to these teachings rely on the burden of those that have ‘inherited the tradition’ [a Karaite term referring to traditions that contain legal information].

Ḥakham Aaron Ben Elijah, *Gan ‘Eden*, ‘Inyan Qiddush Ha-ḥodesh, chapter 9, p. 10a, col. 1:

**אמנם דרכי החלוקה שיש בינינו ובין הרבנים בענין ראיית הירח בעבור שהלבנה לא תראה שוה לכל העולם מפני שתשתנה קשת הראייה לפי המקומות [ . . . ​] ולכן חכמי הרבנים אומרים כי קביעת החדשים לא תהיה כי אם לפי מקום ירושלם, ואומרים כי הרחוקים מירושלם שאין השלוחין מגיעים אליהן מפני הספק היו עושים שני ימים מפני שלא היו יודעים איזה יום קבעו בירושלם. וחכמי הקראים, עליהם השלום, אומרים: הואיל וקדוש החדש תלוי על פי ראיית הירח בכל מקום שתהיה ראיית הירח, ראוי לקבוע כפי המקום ההוא. והנה תראה הלבנה לאנשי מערב קודם אנשי ארץ ישראל, ואיך אפשר שלא לקבוע החדש בו ביום זה, דבר שאי אפשר? ואין להקשות בזה שמהם יהיו עושים היום ומהם עושים למחר, שהמצות נתנו לפי היכולת, וכל אחד יהיה עושה כפי שיראה לו. הלא אין קדוש החדש בראיית הירח מצוה מחודשת, אלא מנהג קדום היה, כפי שהעיר במאמר 'והיו לאותות ולמועדים'. ונותן התורה העמידנו בו ע"פ אותו המנהג, שלא היה בהסגל מקום.**

Indeed, the ways that the Rabbanites are different from us regarding the sighting of the moon are a result of [the fact that] the moon is not seen equally to the whole earth because the arc of sight is different in different places. [ . . . ​] Therefore, the Rabbanite sages say that the establishment of the months must be based only on [the appearance of the moon in] Jerusalem; they say that the people far from Jerusalem, whom emissaries [from Jerusalem] did not reach, would observe two days [of the festivals], because they did not know which day had been established [as the first of the month] in Jerusalem. But the Karaite sages, peace be upon them, say: Because the establishment of the month is dependent on the sighting of the moon, therefore, wherever the moon be seen, it is appropriate to establish [the calendar] in accordance with that place. For it is impossible [that everyone would see the moon simultaneously]. And one should not challenge this by noting that this would mean that some people would observe the festival on one day, and some people the next day; for the commandments were given [to be observed] in accordance with one’s ability, so each person should act in accordance with what is visible to him. Is not the sanctification of the month by sighting the moon not a new commandment, but rather an ancient practice, as [the Torah] notes in the verse: *And they [the heavenly luminaries] shall be as signs for the appointed times* (Genesis 1:14)? The Giver of the Torah enjoined us to follow that practice, which was not limited to any specific place.

Finally, Ḥakham Elijah Bašyachi (fifteenth century) writes in *Addereth Eliyyahu*, ‘Inyan Qiddush Ha-ḥodesh, chapter 10, p. 8a:

**ועוד שלא מצאנו בכתוב שיסגיל זאת המצוה בארץ ישראל, אמנם זאת המצוה היתה מימים קדומים, מזמן נח ואברהם אבינו עליהם השלום, בקִדּוּשׁ הירח לפי מקום ומקום.**

Furthermore, we do not find in Scripture that this commandment is limited to the Land of Israel. Rather, this commandment is from earlier times, from the times of Noah and Abraham, peace be upon them, who sanctified the month according to [the appearance of the moon in] whatever place [they were].

*iv*

Presumably, the author attributes this change to Rabban Gamliel because of a passage in the Babylonian Talmud, Tractate Rosh Ha-­shana (25a): the Mishna states that Rabban Gamliel would show the witnesses various images, to ask if they saw “like this” or “like this.” If they said that they saw the shape that could not possibly be the new moon, he rejected their testimony. This already shows that he did not just accept anyone who claimed to have seen the new moon. The Babylonian Talmud comments on this Mishnaic passage by citing the following report:

**תניא אמר להם ר"ג לחכמים כך מקובלני מבית אבי אבא פעמים שבא בארוכה ופעמים שבא בקצרה [ . . . ​] ת"ר פעם אחת נתקשרו שמים בעבים ונראית דמות לבנה בעשרים ותשעה לחדש כסבורים העם לומר ר"ח ובקשו ב"ד לקדשו אמר להם ר"ג כך מקובלני מבית אבי אבא אין חדושה של לבנה פחותה מעשרים ותשעה יום ומחצה ושני שלישי שעה וע"ג חלקים [ . . . ​].**

It is taught: Rabban Gamliel said to the sages: I have received a tradition from my grandfather’s house that sometimes [the new month] comes in after a longer period, and sometimes after a shorter. [ . . . ​] The rabbis taught: One time, the sky was full of clouds, and a white form was seen on the twenty-­ninth of the month. The people thought that it was the New Moon, and the court wanted to sanctify [the day as the first day of the new month]. But Rabban Gamliel told them: I have received a tradition from my grandfather’s house that the new moon cannot appear before 29 days and a half [day] and two-­thirds of an hour and 73 *ḥalaqim* (1 *ḥeleq* = 1/1080 of an hour, so this is 73/1080 of an hour) [ . . . ​].

This shows that Rabban Gamliel had a calculation. Nonetheless, it is clear that he still relied on witnesses to sight the moon, but he rejected witnesses if they claimed that they sighted it at a time when his astronomical calculations showed that this would be impossible.

In fact, the determination of the new month by witnesses of the moon continued among the Rabbanites long after the time of Rabban Gamliel. It is unclear when, why, and how the change to the fixed, calculated calendar took place, and the process seems to have occurred over time. (See Sacha Stern, *Calendar and Community*: *A history of the Jewish calendar, second century BCE–­tenth century CE*, Oxford University Press, 2001.)

Rabbanites today, and for the past several hundred years, say that the change occurred at the time of Hillel II (mid-­fourth century CE); this claim first appears in the twelfth century, in a work by Abraham bar Ḥiyya (*Sefer Ha-­‘ibbur*, ed. Phillipowsky, London, 1851 ma’amar 3, sha‘ar 7), but there is no evidence to support it.

*v*

These rules do not appear explicitly in the Talmud, though some vague references to a primitive form of some of them occur in the Babylonian Talmud, Rosh Ha-­shana 20a. The formulation that *Levush Malkhuth* cites is in the law codes *Ṭur* and *Shulḥan ‘Arukh* (both in section *Oraḥ Ḥayyim* §428, for the two codes use the same organization system). Though the *Ṭur* was written in the fourteenth century and the *Shulḥan ‘Arukh* in the sixteenth, these rules predate the *Ṭur* by several hundred years, though they are later than the Talmud.

Shulḥan ‘Arukh §428:

**אלו הימים שאין ראויין לקבוע בהן המועדים לא אד"ו ראש השנה, ולא גא"ו צום כפור, ולא זב"ד פורים, ולא בד"ו פסח, ולא גה"ז עצרת והושענא רבה, לא ג' חנוכה, ולא אג"ו צום אסתר, ולא בד"ו צום תמוז ואב.**

These are the days when it is not right to establish the festivals. Rosh Ha-­shana must not be on Sunday, Wednesday, or Friday; the fast of Kippur must not be on Tuesday, Sunday, or Friday; Purim must not be on Saturday, Monday, or Wednesday; Pesaḥ must not be on Monday, Wednesday, or Friday; ‘Aẓereth [=Shavu‘oth] and Hosha‘na Rabba [=the seventh day of Sukkoth] must not be on Tuesday, Thursday, or Saturday; Ḥanukka must not be on Tuesday; the fast of Esther must not be on Sunday, Tuesday, or Friday; and the fasts of Tammuz and Av must not be on Monday, Wednesday, or Friday.

*vi*

*Note from Tomer Mangoubi:* As the author explains, Karaite Jews historically sanctified the month according to the testimonies of witnesses who saw the new moons. Unlike the Rabbanites, who relied only on sightings of the moon from Jerusalem and later on a pre-­calculated calendar, each Karaite community began the month according to the appearance of the new moon in the area where that community resided – just as the day begins at nightfall according to the time zone of wherever one resides. The reason for this is simple. As explained above (endnote *iii*), the practice of sanctifying the month according to the moon predates the giving of the Torah at Sinai and the entry of the Israelites into the land of Israel. Thus, according to the classical Karaite sages, the calendar does not give special relevance to Jerusalem or the land of Israel with regards to setting the month.

*vii*

Cf. Ḥakham Judah Hadassi (twelfth century, Constantinople), *Eshkol Ha-­kofer*, Eupatoria Crimea, 1836 Edition, folio 96b, alphabet §188, letters daleth and hé:

**אבל הרחוקי[ם] מראיית עדות בשולו מארץ קדושתו דינם לחקור ולשאול לבאים שם, אולי ישמעו ויתבררו מן שוכניה ראיה בעדותו. [ . . .] וע"כ אין אנחנו יודעים אי זו שנה י"ב חדש ואי זו י"ג לערכה אלא מעיון העד, ושמע ארץ הקדושה בגלותנו זו אשר בחטאתינו ובעונות אבותינו עלינו ארכה.**

But those who are far from eyewitness testimony about the ripening [of the *aviv*] in its Holy Land – the law is that they must examine and interrogate the people who travel there [to the Holy Land and back], for perhaps they have heard and clarified from its inhabitants [about] eyewitness testimony. [ . . . ​] Therefore, we know which years are of twelve months and which number thirteen only from investigating the witness, who has heard from the Holy Land, [and can tell us] in our exile, which has lasted so long due to our sins and the iniquities of our ancestors.

Cf. also Ḥakham Israel Ha-­ma‘aravi (Egypt, 1313), cited in Sh. Asaf and L. E. Meyer, *Sefer Ha-­yishuv*, volume 2, Jerusalem, 1944, p. 107:

**הודו משכילי רוב ישראל כי טוב ללכת על דרך חשבון עבור של מחזור, כי דרך קרוב הוא על האביב הנמצא בארץ ישראל. אבל ישראל הקראים בעלי מקרא היושבים קרוב לארץ ישראל, הקהל של מצרים ושל אסכנדריאה, הוא נא אמון, והקהל של דמשק ושל חלפ, שהם ארם צובא וארם נהרים, אלו הקהלות בכל שנה ושנה שולחים שליחים אנשים נאמנים לארץ ישראל, ומבקשים ודורשים וחוקרים ומחפשים אותו בכל המקומות הידועים בקבלה כי יש שם ימצא קודם מכל המקומות. ואם ימצא אחד כי נתבשל לוקחים כמו שני עמרים מן שבלי השעורים ומביאים להם עדות האביב ומראים להם האביב ועושים פסח, ועד עשרה בניסן מגיעים אלו השלוחים לכל אלו הקהלות.**

The scholars of the majority of the Jewish people are in consensus that it is good to follow a calculation for the intercalation of the calendar, for this is close to the *aviv* that is found in the Land of Israel. However, the Karaite Jews, who follow Scripture, who live close to the Land of Israel – the community in Egypt, and in Alexandria [known also as] No-­Amon, and the community in Damascus and in Aleppo [known also as] Aram-­Ẓova and Aram-­Naharayim – these communities send emissaries, reliable men, each year, to the Land of Israel, and they ask and seek and search and investigate each of the places where they know from tradition that [the *aviv*] is [typically] found there before [it appears in] other places. If one of them finds that it has ripened, they take two sheaves from the stalks of barley, and they bring them as evidence of the *aviv*; they show the *aviv* to [their communities], and establish Pesaḥ [in the appropriate month]. These emissaries come to all these communities by the tenth of Nisan.

*viii*

This is an adaptation of Babylonian Talmud, Sanhedrin 11a:

**תנו רבנן: אין מעברין את השנה אלא אם כן היתה צריכה מפני הדרכים ומפני הגשרים ומפני תנורי פסחים ומפני גליות ישראל שנעקרו ממקומן ועדיין לא הגיעו אבל לא מפני השלג ולא מפני הצינה ולא מפני גליות ישראל שלא עקרו ממקומן.**

**תנו רבנן: אין מעברין את השנה לא מפני הגדיים ולא מפני הטלאים ולא מפני הגוזלות שלא פירחו אבל עושין אותן סעד לשנה כיצד רבי ינאי אומר משום רבן שמעון בן גמליאל מהודעין אנחנא לכון דגוזליא רכיכין ואימריא דערקין <צריך לומר: דעדקין, וכן הוא בכל כתבי היד> וזימנא דאביבא לא מטא ושפרת מילתא באנפאי ואוסיפית על שתא דא תלתין יומין.**

Our sages taught: We may not declare a leap year unless it is necessary for the roads; or for the bridges; or for the ovens for the Pesaḥ sacrifice; or for the exiles of Israel who have been displaced from their homes and not arrived yet. But not on account of the snow, or the cold, or the exiles of Israel who have not been displaced from their homes.

Our sages taught: We may not declare a leap year on account of the kids, or the lambs, or the baby birds that have not yet flown; but we may use those as auxiliary reason to make a [leap] year [if we already have a legitimate reason]. How so? Ribbi Yannai said in the name of Rabban Simeon ben Gamliel: “We inform you that the baby birds are still young, and the sheep are still small, and the time of spring has not yet come.” And this is correct in my opinion, and I have added thirty days to this year.

Rashi (French commentator on the Bible and Talmud, 1040–1105) explains that the words, “auxiliary reason to make a [leap] year,” mean that we may not use these causes on their own as a reason to make a leap year, but they may be used in conjunction with any of the main three causes, mentioned on Sanhedrin 11b, the next page: The *aviv*, the (new spring) fruits of trees, and the equinox. If any two out of the main three are relevant – that is, if the *aviv*, the new fruit, or the equinox have not yet arrived – then a leap year may be declared; but if only one out of the main three is relevant, then the kids, lambs, or baby birds may be used as the second cause, and the leap year may be declared.

*ix*

Talmudic Rabbanite law requires Jews to destroy all their leavened matter before Pesaḥ. Any leaven that they sell before the designated time does not belong to them any longer, so they are not obligated to destroy it; for this is a permanent sale, and the Jew will never again possess this leaven.

In a case where it is impossible for the Jew to destroy their leaven, for the Jew is on a ship in the middle of the sea, the Tosefta (a Talmudic-­era rabbinic source) allows a Jew to sell or gift their leaven to a non-­Jewish co-­traveler, and then, if the non-­Jew is willing to sell it back after Pesaḥ, the Jew may buy it back. This is an extreme situation, where the Jew may have nothing else to eat if they cannot buy back their leaven, and yet even here, the Jew must sell or gift the leaven as a true, complete sale, and it is up to the non-­Jew to sell it back, if they so choose.

Tosefta Pesaḥim 1:24 (ed. Zuckermandel):

**ישראל וגוי שהיו באין בספינה והיה חמץ ביד ישראל הרי זה מוכרו לנכרי ונותנו במתנה וחוזר ולוקח הימנו אחר הפסח ובלבד שיתנו לו במתנה גמורה.**

If a Jew and a non-­Jew were together in a ship, and the Jew had leaven in their possession, they may sell it or gift it to the non-­Jew, and then get it back after Pesaḥ, as long as they gave it as a true gift.

In the late Middle Ages, we see in the halakhic work *Terumath Ha-­deshen* of R. Israel Isserlein (1390–1460) that he permits selling or gifting leaven even if there is no expectation that the non-­Jew wants it at all, and the non-­Jew will not consume any of it, but will give it back to the Jew:

**שאלה: מי שיש בידו ענייני חמץ סמוך לפסח, וקשה עליו לבערם ורוצה לתתם לנכרי חוץ לבית במתנה גמורה. ואותו נכרי הישראל מכירו ויודע בו שלא יגע בהן כלל, אלא ישמרם לו עד לאחר הפסח ויחזור ויתנה לו. שרי כהאי גוונא או לאו? תשובה: יראה דשרי, רק שיתנם לו במתנה גמורה בלי שום תנאי, או שימכרם לו מכירה גמורה בדבר מועט.**

A question: If one has leavened matter in one’s house shortly before Pesaḥ, and is displeased with the idea of destroying it, but wants to give it to a non-­Jew out of the house as a true gift. But the Jew knows the non-­Jew, and knows that he will not touch [the leavened matter] at all, but will keep it for [the Jew] until after Pesaḥ, and give it back to him – is this permitted, or not? Answer: It seems that it is permitted, as long as one gives it as a complete gift, without any conditions attached, or one sells it as a complete sale for a small amount [of money] (*Terumath Ha-­deshen* §120).

Later still, this activity became a routine practice for many Rabbanite Jews before Pesaḥ. This was because many Jews owned stores of liquor made from fermented grain, and they would lose their whole livelihood if they would destroy it all. Today, it is standard for rabbis of Rabbanite communities to fill out forms enabling the sale of all their congregants’ leaven to a non-­Jew for a week, even though it is understood that the non-­Jew will not eat any of it and will return the sale at the end of the week.

Nonetheless, this practice is hardly universal; many punctilious Rabbanites refrain from it completely, and indeed destroy their leaven. Famously, R. Elijah, the Gaon of Vilna (1720–1797), opposed such sale of leaven. (See Elijah of Vilna, *Be’ur Ha-­Gra* [Commentary on *Shulḥan ‘Arukh*], *Oraḥ Ḥayyim* §448, comment 10; Issachar Baer, *Ma‘asé Rav*, §180.)

*x*

The author of *Levush Malkhuth* is claiming that Abraham ibn ‘Ezra accepts the Karaite understanding of the expression “*ben ha‘arbayim*.” This is only partly true. In fact, though ibn ‘Ezra admits that the expression “*ben ha‘arbayim*” can allow either meaning, he says that, because “those that transmit the law” (the Rabbanite sages) explain it as meaning the time between noon and sunset, this must be the meaning that it has in the relevant passages in the Torah.

Abraham ibn ‘Ezra, *Short Commentary on Exodus*, 12:6 (printed in *Torath Ḥayyim*, Jerusalem: Mossad Harav Kook, 1993, Exodus, vol. 1, pp. 126 f.):

**ודע, כי 'בין הערבים' הוא על שני דרכים: האחד – מעת שתחשך השמש עד עת סור האור הנראה בעבים, וזאת העת -­ שעה ושליש שעה [ . . . ​] והדרך השני – להיות פירוש 'בין הערבים' בפסח – מעת שתבוא השמש אל תחלת פאת מערב. ומעתיקי התורה אמרו, שהלכה למשה, ש'בין הערבים' בפסח הוא הדרך השני, והוא האמת ואין בו ספק.**

Know that “*ben ha‘arbayim*” can be [understood] in two ways: the first [possible meaning] is the time from when the sun sets until no more light can be seen in the clouds, a period of an hour and a third; [ . . . ​] and the second way is that “*ben ha‘arbayim*” on Pesaḥ is the time from when the sun starts to go down until it reaches the edge of the west. Those that transmit the law have said that the *halakha* has been transmitted since Moses that “*ben ha‘arbayim*” on Pesaḥ is [in accordance with] the second way, and this is the truth, without a doubt.

*xi*

*Note by Tomer Mangoubi*: Not all the Karaite sages believed in an absolute prohibition on carrying. Ḥakham Levi ben Yefeth (eleventh century) argued that while one should strive to be as prepared as possible before the Sabbath to avoid carrying on the Sabbath, one is permitted to carry items outside of one’s house.

Levi ben Yefeth, *Sefer Miẓvoth*, p. 248:

**וכבר זכרנו באשר נקדם כי אמר 'ולא תוציאו משא מבתיכם' לא יורה על זה, וכי יהיה זה כן יעבור לנשוא מאכל וספרי חמשים והכלים אשר יעשה בהם ב[ש]בת מן חצר אל חצר. [ . . . ​] והטוב להשתמר בו.**

And we have already mentioned above that when Scripture says *Do not carry forth a burden out of your houses* (Jeremiah 17:22), it is not referring to [an absolute prohibition on carrying from domain to domain on the Sabbath], and because this is so, it is permissible to carry food, or copies of the five books [of the Torah], or utensils that are used on the Sabbath from one courtyard to another. [ . . . ​] but it is best to be careful about this.

(Ḥakham Levi’s work was originally written in Judeo-­Arabic. Students of rabbinic literature might understand the word **יעבור** to mean *it is forbidden*; but the word **יעבור** is the translation of the Judeo-­Arabic word **יגוז**, which means *it is permissible*. The root of the Arabic word means *to pass*, which is also the root of the Hebrew word **יעבור**. This explains why the word **יעבור** was chosen for the translation.)

Moreover, Ḥakham ‘Anan Ben David held it permissible to carry anything that is not so heavy as to require being carried on one’s shoulders (see *Nemoy, L., Karaite Anthology: Excerpts from the Early Literature*, Yale Judaica Series, 1952, p. 17).

*xii*

The author of *Levush Malkhuth* is alluding here to a passage in the Babylonian Talmud, Sanhedrin 72a, about the case of “one who comes in stealth” (*ha-­ba ba-­maḥtereth*, from Exodus 22:1). The claim in *Levush Malkhuth* that rabbinic halakha simply allows a thief to keep the item he stole is not correct when understood in context.

**אמר רב: הבא במחתרת ונטל כלים ויצא – פטור. מאי טעמא? בדמים קננהו. אמר רבא: מסתברא מילתיה דרב בששיבר, דליתנהו; אבל נטל – לא. והאלהים, אמר רב אפילו נטל! [ . . . ​] ולא היא [...].**

Rav said: “If one came in stealth [to rob one’s neighbor’s house], and took items, and left – one is exempt [from paying for the items].” Why? For he has acquired it with his blood. Rava said: “It seems that Rav’s words refer only to a case where [the thief] broke [the items], such that they are no longer in existence; but if [the thief] took them along – then [Rav’s words do] not [refer to such a case].” But by God, Rav said even “one took [items]”! [ . . . ​] Nonetheless, this is not [the actual halakha] [. . . . ]

These passages relate to the rabbinic concept of *qim leh bi-­derabba minneh* (**קים ליה בדרבה מיניה**) – if one commits an act that bears both a lenient and a stringent penalty, the stringent penalty is sufficient, and one does not have to incur the lighter penalty. Thus, if one commits an action where one is sentenced to both the death penalty and lashes, one does not need to undergo the lashes, just the execution.

In the case of the thief who comes stealthily, the “stringent penalty” is getting killed by the homeowner (“with his blood”), and the “lenient penalty” is having to pay restitution for the stolen property. Rav says that even though the thief did not actually get killed, a court cannot impose the lesser penalty, because one never incurs two penalties at once.

Rava then interprets Rav’s words as referring only to a case where the property has been destroyed, so paying restitution to the homeowner would actually be “a penalty,” a more lenient one than getting killed. But in a case where the whole item still survives, of course the thief would need to give it back – giving it back is not a “penalty” at all, but merely returning what the homeowner owns.

The anonymous editorial layer of the Talmud (the “*sethama di-­gemara*”) then says: no, Rav would mean even in a case where the property has not been destroyed – but nonetheless, it concludes, the halakha does not follow Rav.

In any event, Rav’s statement, “[the thief] has acquired it with his blood,” does not simply mean that because one has put oneself in danger to commit the robbery, one somehow deserves the property. Rather, it is a highly complicated application of the principle that two penalties cannot be incurred in one act. An unfair application, to be sure, but sometimes legal systems are such that, in certain circumstances, courts are unable to mete out a certain penalty – in this case, to force the thief to return the stolen object. (As another example of where a court simply cannot mete out a fair penalty, consider a case where there is only one witness to a crime, a very reliable, trusted witness; in such a case, the court simply cannot punish the crime, for the Torah insists on two witnesses.)

Finally, as noted above, the conclusion of the anonymous editors of the Talmud goes against their interpretation of Rav’s statement – indeed, the thief would need to return the item if it is still in existence. And because this is the conclusion of the passage, normative rabbinic halakha follows this; only in a case where the item has been destroyed, the court cannot force the thief to pay restitution (Maimonides, *Hilkhoth Geneva* 9:13).

*xiii*

*Note from Tomer Mangoubi*: Ḥakham Aaron ben Elijah, in *Gan ‘Eden*, understands “intentional” cases to include two separate scenarios. First, the obvious case in which one intends to maim his fellow and succeeds in doing so. Second, cases in which one engages in risky behavior such that he knows it is very likely for him to maim his fellow.

Importantly, Ḥakham Aaron ben Elijah does not apply the punishment of “a life for a life” in cases in which a man intends to strike his fellow but without the intention to kill, and in a way not likely to kill him:

*Gan ‘Eden*, Diné Mumin, p. 179b, column 1:

**אמר הכתוב על ההורג רעהו בשגגה, הוא מי שכיוון להכות את רעהו ומתוך מכתו מת, אם היה הדבר שהכהו בו אין ראוי לההרג בו אדם, ונהרג, זה יִקָּרֵא 'מכה נפש בשגגה'. ועל כן חבר ואמר: 'ואם בכלי ברזל הכהו וימות', וכו'; כי הואיל שהכהו בדבר שימות בו אדם, העלה עליו הכתוב שהוא רוצח מזיד.**

Scripture says that one who kills his fellow *accidentally* includes one who intended to strike his fellow, and because of the strike, [his fellow] dies, for if he hits him with something that is not [usually] liable to cause death, and he is killed – this is what is called *one who kills a man accidentally* [Numbers 35:11]. For this reason, Scripture continues and says: *And if with a metal tool he hits him and he dies, [he is a murderer]* [Numbers 35:16]; for [Scripture] informs us that if one hits another with a tool that is liable to kill a man, then he is an intentional murderer.

Ḥakham Aaron ben Joseph, in *Sefer Ha-­mivḥar*, holds the same way; see *Sefer Ha-­mivḥar*, Parashath Mishpaṭim, p. 43a, on Exodus 22:21–27:

**אבל אם נתכוון לעשות בו פגם, עין תחת עין. וכי מה נפש אם הרגו בשגגה גולה ממקומו, אם כן במומים שאין מכוון יתן כפר.**

If he intends to give him a blemish, [the ruling is] *an eye for an eye*. However, regarding injuries without intent, he gives monetary compensation (*kofer*).

*xiv*

A number of rabbinic sources present this reading of Exodus 32:2 as a principle to follow the majority in legal debates. See the sources assembled by M. M. Kasher in *Tora Shelema*, vol. 18, pp. 161 ff. Here let us suffice with one source,

Palestinian Talmud, Sanhedrin 4:2:

**א"ר ינאי אילו ניתנה התורה חתוכה לא היתה לרגל עמידה. מה טעם וידבר ה' אל משה אמר לפניו רבונו של עולם הודיעני היאך היא ההלכה אמר לו אחרי רבים להטות רבו המזכין זכו רבו המחייבין חייבו כדי שתהא התורה נדרשת מ"ט פנים טמא ומ"ט פנים טהור מיניין ודגל"ו.**

R. Yannai says: If the Torah had been given in a clear-­cut manner, there would be no room for the foot to stand. Why so? The Lord spoke to Moses, and [Moses] said to Him: “O Master of the Universe, please tell me what the *halakha* is.” He replied: “*Decline after many* – if there are more [opinions] that say exempt, then it is exempt; if there are more [opinions] that say it is liable, say liable.” Thus, the Torah is expounded in forty-­nine ways to declare [a given case] impure and forty-­nine ways to declare [the given case] pure, in accordance with the numerical value of the word *ve-­diglo* [=“and his banner,” Song of Songs 2:4].

*xv*

*Note from Tomer Mangoubi*: To the best of my knowledge, none of the classical Karaite sages held that Jews are to separate pots in which a mother’s milk is boiled from pots in which the offspring’s meat is boiled. With few exceptions (unrelated to milk and meat), Karaite jurists were generally concerned with the ritual purity of utensils (see Leviticus 11:32), not with whether utensils came into contact with ritually pure items that were nevertheless forbidden from consumption.

*xvi*

Babylonian Talmud, Karethoth 6a:

**ת"ר פיטום הקטרת הצרי והציפורן והחלבנה והלבונה משקל שבעי' של שבעים מנה מור וקציעה שיבולת נרד וכרכום משקל ששה עשר של ששה עשר מנה הקושט שנים עשר קילופה שלשה וקנמון תשעה בורית כרשינה תשעה קבין יין קפריסין סאין תלתא קבין תלתא אם אין לו יין קפריסין מביא חמר חיוריין עתיק מלח סדומית רובע מעלה עשן כל שהוא ר' נתן אומר אף כיפת הירדן כל שהוא ואם נתן בה דבש פסלה חיסר אחת מכל סממניה חייב מיתה.**

The sages taught [in a *baraitha*]: The recipe for the incense is: balsam, onycha, galbanum, frankincense, each of seventy *mané*-­measures; myrrh, cassia, sweet spikenard, saffron, each of sixteen *mane*-­measurements; costus, twelve [*mané*-­measures]; cinnamon, nine; Carshina lye, nine *qav*-­measures; Cypriot wine, three *se’a*-­measures and three *qav*-­measures; and if one has no Cypriot wine, one brings aged white wine; Sodom salt, a quarter [of a *qav*]; and a small bit of *ma‘alé* *‘ashan* [an herb that causes the smoke to rise]. R. Nathan says: Even a small amount of resin from [the banks of] the Jordan. And if one adds honey to it, this renders it invalid. And if one leaves out any of its spices, one incurs the death penalty.

Because the incense may be made and burned only in the Temple, the debate about its recipe is not actually a matter of practical import for Karaites or Rabbanites. Nonetheless, most Rabbanite groups have traditionally included this Talmudic passage about the incense in their daily or weekly liturgy, which gives it a certain prominence in their lives. (See, for example, Philip Birnbaum, ed., *Daily Prayer Book: Ha-­Siddur HaShalem*, Hebrew Publishing Company, 1949, p. 407.) This may be why the author of *Levush Malkhuth* has chosen to include it in his book.

*xvii*

The eighteen *ṭerefoth* are listed in Mishna Ḥullin 3:1. (They are very technical, and there is no reason to list them here.) The author of *Levush Malkhuth* says that a *sirkha* and a *ṭerefa* are synonymous terms for the Rabbanites, but this is actually not so. In fact, a *ṭerefa* is an invalidating condition (as *Levush Malkhuth* accurately states), whereas a *sirkha* is a kind of string on the outside of the lungs (as *Levush Malkhuth* states earlier), which is not itself a *ṭerefa*; in some cases, this presents no problem, but in many technical cases, rabbinic *halakha* is concerned that the *sirkha* might be concealing a *ṭerefa* underneath it. See Maimonides, *Mishné Tora*, *Hilkhoth Sheḥiṭa* 11:4 ff.

*xviii*

As the author explicitly notes here, the source for this idea is in the Babylonian Talmud, Ḥullin 59a:

**ואמר רב חסדא היה מהלך במדבר ומצא בהמה שפיה גמום ופרסותיה חתוכות בודק בבשרה אם מהלך שתי וערב בידוע שהיא טהורה ואם לאו בידוע שהיא טמאה ובלבד שיכיר ערוד לאו אמרת איכא ערוד איכא נמי מינא אחרינא דדמיא לערוד גמירי דליכא והיכא בודק אמר אביי ואיתימא רב חסדא בכנפי העוקץ.**

And Rav Ḥisda said: If one is walking in the wild and finds an animal whose mouth and hooves are injured [such that one cannot check for cud-­chewing or split hooves], one should check its flesh: if it runs crosswise, then it is definitely kosher; and if not, then it is definitely not kosher – as long as one is familiar with [the appearance of] the *‘arod* [wild ass]. But [the Talmud challenges this]: Once you say that the *‘arod* [is an exception], maybe there are other exceptions, similar to the *‘arod*? No [the Talmud resolves this challenge], we have a tradition that there are no others. And where does one check [the flesh]? Abbayyé, and some say Rav Ḥisda, said: In the edges of the tail.

*xix*

This is referring to the Rabbinic principle of *biṭṭul* (nullification of small amounts).

Babylonian Talmud, Ḥullin 98a:

**אמר ר' חייא בר אבא אמר ר' יהושע בן לוי משום בר קפרא: כל איסורין שבתורה בששים. אמר לפניו ר' שמואל בר רב יצחק: רבי, אתה אומר כן? הכי אמר רב אסי אמר ר' יהושע בן לוי משום בר קפרא: כל איסורין שבתורה במאה. ושניהם לא למדוה אלא מזרוע בשלה, דכתיב: ולקח הכהן את הזרוע בשלה וגו' (במדבר ו, יט). ותניא: בשלה [ . . . ​] – ר' שמעון בן יוחאי אומר אין בשלה אלא שנתבשלה עם האיל. [ . . . ​] מאן דאמר בששים סבר בשר ועצמות בהדי בשר ועצמות משערינן, והוה ליה בששים; מאן דאמר במאה סבר בשר בהדי בשר משערינן, והוה ליה במאה.**

R. Ḥiyya bar Abba says in the name of R. Joshua ben Levi in the name of Bar Qappara: “All prohibited foods in the Torah are [nullified] in sixty.” But R. Samuel bar Rav Isaac said to him: “My master, do you teach thus? [But] Thus said Rav Assi in the name of R. Joshua ben Levi in the name of Bar Qappara: All prohibited foods in the Torah are [nullified] in one hundred.” The two opinions are each derived from the “cooked leg” [of the ram offered by a Nazirite], as it is written: *The priest shall take the cooked leg* [Numbers 6:19]. And it is taught [in a *baraitha*]: “*Cooked* [ . . . ​] – R. Simeon b. Yoḥai says that it is cooked together with the ram.” [ . . . ] The opinion that says sixty says that we measure the flesh and bones [of the leg] against the flesh and bones [of the entire ram], whereas the opinion that says one hundred says that we measure just the flesh [of the leg] against the flesh [of the ram].

That is, the leg of the ram is to be eaten by the priests, and is forbidden to ordinary Jews. However, the rest of the ram is eaten by the ordinary Jews. If the leg is cooked together with the rest of the ram, then there will be a transfer of fat and fluids between them, such that some of the essence of the leg will be present in the rest of the ram. Thus, when some small amount of forbidden food is mixed into permitted food, the mixture is permitted. The two sides in the Talmudic debate differ on how exactly to calculate this amount, but they agree on the principle.

*xx*

*Note from Tomer Mangoubi*: Perhaps the author misspoke in his haste to complete his work. To the best of my knowledge, all other Karaite sages held that, when one touches an object upon which a menstruant has sat or lain, one becomes impure. Their view is in accordance with the plain meaning of the biblical text (Leviticus 15:22–23). However, the author states without justification that, even if one touches what a menstruant has touched, without her having sat or lain on the object, one becomes impure.

*xxi*

*Note from Tomer Mangoubi*: Like our author, *Addereth Eliyyahu* and *Gan ‘Eden* hold that a priest must declare whether one is impure with afflictions. Unlike *Levush Malkhuth*, however,both works insist that only a priest with a definitive pedigree may accomplish this task.

*Addereth Eliyyahu*, ‘Inyan Ṭum’a Ve-­ṭohora, chapter 14, p. 75a:

**בנגעי צרעת, להיות שטומאת מצורע וטהרתו תלויות לכהן, ועתה בגלות אין לנו כהנים מיוחסים בכתב . . .**

With regard to the *ẓara‘ath*-­afflictions: the impurity and purification of the afflicted one are dependent on a priest, and here in our exile, we have no priests whose lineage can be demonstrated with [family] documents. . . .

*Gan ‘Eden*, ‘Inyan Ṭum’a Ve-­ṭohora, Diné Nig‘é Ẓara‘ath, p. 119a:

**ועתה בגלות, כיון שאין כהן ידוע שהוא מבני אהרן, שהרי בזמן בית שני כשהיו כהנים כשבקשו כתבם המתיחס ולא נמצא ויגואלו מן הכהונה; וזה היה בזמן שבית המקדש קיים, כל שכן עתה בגלותנו. אך לפי הנראה אם יהיה כהן מיוחס עתה יש לו לטמא ולטהר.**

But today, in the exile, there is no priest that is known [for certain] to be from the descendants of Aaron. For behold, in the time of the Second Temple, they would investigate the documents of priestly lineage; and when they could not find them, [the relevant priests] were expelled from the priesthood. This was at the time when the temple stood; all the more so today in our exile [when we are more distant from the time of Aaron]. But it seems that if, [theoretically,] there should [happen to] be a priest with a pedigree even today, he would be able to declare impure, and purify [people with *ẓara‘ath*-­afflictions].

Thus, either the author of *Levush Malkhuth* had access to priests with pedigrees in his community, or he did not believe that a pedigree was necessary for priests in order to adjudicate matters of impurity due to *ẓara‘ath*-­afflictions.

*xxii*

*Note from Tomer Mangoubi*: Most Karaite sages held that a man who sleeps with a menstruant on the first day of her blood flow is impure for seven days, whereas one who sleeps with a menstruant on latter days is impure only for one. This is because they believed the blood on the first day (*dam rishon*) to be more impure than the blood on latter days.

*Addereth Eliyyahu*, ‘Inyan Ṭum’a Ve-ṭohora, chapter 9, p. 73b:

**ובעלי התלמוד לא הבדילו בין דם ראשון לדם שאר הימים, היות מוסיפים שבעה ימים נקיים. אמנם בעלי מקרא, בהיותם אינם מוסיפים שבעה נקיים, הוכרחו להבדיל בין דם ראשון לדם שאר הימים, כי אמרו שטומאת שבעת ימי נידה אינם כי אם בעבור הדם הראשון, ולא בעבור דם שאר הימים; כי אפילו שלא תראה דם שני היא טמאה טומאת שבעה, וזה הוא בעבור הדם הראשון.**

The Talmudites do not differentiate between the blood of the first day and the blood of the rest of the days, since they add seven purification days [after any time a woman sees vaginal bleeding]. However, the Karaites, because they do not add seven purification days, must differentiate between blood of the first day and blood of the rest of the days; for they said that the impurity of the seven days of menstruation are due to the blood of the first day, not the blood of the rest of the days. For even if she does not see blood of the second day, she is nonetheless impure seven days; this is because of the blood of the first day.

*xxiii*

Originally, the Rabbanites distinguished between the menstruant and the *zava*, just as the Karaites do. However, because of concern of not being expert in identifying what flow counts as menstruation and what as that of a *zava*, the Rabbanites became progressively more strict in applying the stringencies of both kinds of flow on every flow – not because they interpret the biblical verses thus, but as a stringency to be extra careful.

This is explained in the Babylonian Talmud, Nidda 66a:

**אמר רב יוסף אמר רב יהודה אמר רב: התקין רבי בשדות: ראתה יום אחד – תשב ששה והוא. שנים – תשב ששה והן. שלשה – תשב שבעה נקיים. אמר ר' זירא: בנות ישראל החמירו על עצמן, שאפילו רואות טפת דם כחרדל – יושבות עליה שבעה נקיים.**

Rav Yosef said in the name of Rav Yehuda, who said it in the name of Rav: Ribbi [*i.e.*, Judah Ha-­nasi, around the year 200 CE] instituted in the fields: If a woman sees [blood] for a single day – she must sit [=remain impure] for that day, and six more [following the biblical rule for a menstruant]. [If she sees blood] for two days – she must sit for those days, and six more [for a total of eight – seven in case she is a menstruant, but counting these seven only starting the second day, in case the first day she was a *zava*, not a menstruant]. [If she sees blood] for three days – she must sit seven clean days [following the biblical rule for a *zava*, thus adding up to a total of ten days]. R. Zera [around the year 300] said: The daughters of Israel have taken a stringency upon themselves, such that even if they see only a single drop of blood, like [the size of] a mustard-­seed – they sit seven clean days after it.

*xxiv*

The word here is *mamzerim*, a word that first appears in Deuteronomy 23:3, which rabbinic tradition understands as “children born as the result of illicit sexual relationships,” and the author of *Levush Malkhuth* seems to agree with this rabbinic understanding.

According to the Karaite sage Jacob ben Reuben (eleventh century), there were at least seven definitions of *mamzer* known in his day, some of which also correspond to the Rabbanite understanding. His yet unpublished commentary (*Sefer Ha-­‘osher*) on Deuteronomy 23:3 is cited from manuscript in Zvi Ankori, *Karaites in Byzantium: The Formative Years, 970-­1100*, (Columbia University Press, 1959), p. 72, n. 40, and lists the following interpretations of the word:

**והם: (1) גוים כופרים ונתיהדו. (2) ד[בר] א[חר] . . . הוא הידוע מאמו ולא ידוע מאביו . . . (3) וכל מי שנולד מן ער[י]ות אסורות גם הוא יקרא ממזר. אבל ישראל נקרא ממזר מפני שנתגרשו מנחלת אברהם, שנ[אמר]: "וישב ממזר באשדוד". (4) ד[בר] א[חר] והנולד מן הנדה . . . (5) ד[בר] א[חר] היא משפחה מהגוים קרואה ממזר . . . (6) ד[בר] א[חר] הם כל הגוים המתיהדים, ולא כן הוא. (7) ד[בר] א[חר] הם שאינם מזרע אברהם**

(1) Gentiles, who reject [God], but [nonetheless] become Jewish; (2) another interpretation: [ . . . ​] one whose mother is known, but whose father is unknown; [ . . . ​] (3) anyone who is the offspring of forbidden sexual relations; but a Jew is called *mamzer* on account of being banished from Abraham’s inheritance, as it is written: *and the mamzer will dwell in Ashdod* [Zechariah 9:6]; (4) another interpretation: one who is conceived by a menstruant woman; (5) the name of a specific gentile clan is *mamzer*; (6) all gentiles that become Jewish – but this is not correct; and (7) anyone who is not of the seed of Abraham.

*xxv*

Mishna Ḥullin 4:5:

**השוחט את הבהמה, ומצא בה בן שמונה חי או מת, או בן תשעה מת – קורעו, ומוציא את דמו. מצא בה בן תשעה חי – טעון שחיטה, וחייב משום "אותו ואת בנו". דברי רבי מאיר; וחכמים אומרין, שחיטת אימו מטהרתו.**If one has slaughtered an animal, and finds in it a not-­quite-­fully-­formed fetus [literally, “an eight-­month-­old,” because a human fetus would be of that level of readiness after eight months of gestation], whether alive or dead, or a fully-­formed fetus [literally, “a nine-­month-­old”] that is dead – one may tear it out, and remove its blood [and then it will be kosher to eat]. If one finds a fully-­formed fetus, and it is alive – it needs to undergo [kosher] slaughter, and [if one slaughters it that day], one violates [the law against slaughtering] it and its young [both in one day]. These are the words of R. Meir; but the sages say: the slaughter of its mother makes it fit [for consumption by Jews].

Rabbanite law follows the opinion of R. Meir; see, for example, Maimonides, *Hilkhoth Ma’akhaloth Asuroth* 5:13.

*xxvi*

See Babylonian Talmud, Menaḥoth 65a–b:

**שהיו בייתוסין אומרים עצרת אחר השבת. ניטפל להם רבן יוחנן בן זכאי, ואמר להם: שוטים, מנין לכם? ולא היה אדם אחד שהיה משיבו, חוץ מזקן אחד שהיה מפטפט כנגדו ואמר: משה רבינו אוהב ישראל היה, ויודע שעצרת יום אחד הוא; עמד ותקנה אחר שבת כדי שיהו ישראל מתענגין שני ימים. קרא עליו מקרא זה: 'אחד עשר יום מחורב דרך הר שעיר' – ואם משה רבינו אוהב ישראל היה, למה איחרן במדבר ארבעים שנה?! אמר לו: רבי, בכך אתה פוטרני?! אמר לו: שוטה, ולא תהא תורה שלמה שלנו כשיחה בטילה שלכם? כתוב אחד אומר 'תספרו חמשים יום', וכתוב אחד אומר 'שבע שבתות תמימות תהיינה'. הא כיצד? כאן ביום טוב שחל להיות בשבת, כאן ביום טוב שחל להיות באמצע שבת.**

For the Boethusians said: ‘Aẓereth [a name for Shavu‘oth, standard in Talmudic literature] is after the Sabbath [*i.e.*, on Sunday]. Rabban Yoḥanan ben Zakkai went to deal with them, and said to them: “Fools, what is your reasoning?” None of them responded to him, except one old man who started babbling at him, saying: “Moses our teacher loved the Jewish people, and knew that ‘Aẓereth was only a single day; so he instituted it after the Sabbath, so that the Jews could have a two-­day period of enjoyment.” [Rabban Yoḥanan ben Zakkai] cited the following verse with regard to this: *It is an eleven-­day journal from Horeb, by way of Mt. Se‘ir [until Qadesh-­Barnea‘]* (Deuteronomy 1:2) – “If Moses our teacher loved the Jews, why did he delay them in the wilderness for forty years [rather than bringing them over the short way of eleven days]?!” [The Boethusian man] responded: “My teacher, do you dismiss with [such a flimsy response]?!” [Rabban Yoḥanan ben Zakkai] said: “You fool, is our complete Torah like your idle chatter? One verse says: *Ye shall count fifty days* [Leviticus 23:16], and another verse says: *they will be seven complete weeks* [Leviticus 23:15]. How does this work? One verse [*complete weeks*] speaks of [a year when] the festival [the first day of the Festival of Maẓẓoth] falls on the Sabbath; whereas the other verse refers to [a year when] the festival falls during the week.

*xxvii*

*Note from Tomer Mangoubi*: To the best of my knowledge, among the classical Karaite sages, only Ḥakham Daniel al-­Qumisi (tenth century) advocated blowing the shofar on Yom Teru‘a. Although he did not assert that blowing the shofar was *required*, Ḥakham Daniel believed the shofar would inspire Israelites to repent in advance of Yom Kippur.

As adapted from the text of Qumisi’s commentary on Leviticus 23:24 in the Maagarim database of the Academy of the Hebrew Language:

**ומן דעתי ביום תרועה חוץ מן תקיעת קרבנות הריעו בכל עיר למען להכריז עליהם ולהזכיר אתם: שובו מדרכיכם ותטהרו את מעשיכם כי בא יום כפרים. כי כל צום בלא תשובה אין בו יתרון [ . . . ​] על כן אשרי איש אשר בשמעו קול שופר תרועה ידע כי עליו להכין את מעשיו. ככתוב "אשרי העם יודעי תרועה". ויוליכם ה' באור פניו. ככתוב: "ה' באור פניך יהלכון".**

And it is my opinion that on Yom Teru’a, aside from the sounding [of the trumpets] [accompanying the Temple] sacrifices, they would sound in every city in order to proclaim to them and to remind them: “Return from your ways and purify your deeds because Yom Ha-­kippurim is coming.” For every fast without repentance has no benefit. [ . . . ​] Therefore, happy is the man who, when he hears the voice of the sounding shofar, knows that it is upon him to prepare his deeds, as it is written, “happy is the nation who knows the sounding,” and the Lord will make them walk in the light of his countenance, as it is written, “O Lord, in the light of your countenance they walk” (Psalms 89:16).

(The text, as found in the Maagarim database, has the actual Tetragrammaton, which is unusual for this time period.)

*xxviii*

This claim is very strange; presumably, he means that Rabbanites go through countries where it is impossible to observe the Sabbath or obtain kosher food, just to obtain these species. However, in fact no Rabbanite rabbis would approve of such behavior. Rabbanite halakha does not permit even carrying the species to the synagogue on the Sabbath (seeBabylonian Talmud, Sukka 43a), let alone eating non-­kosher food in order to obtain them. See also *Tosfoth Yom Ṭov*, commentary on the Mishna by Yom Ṭov Lipmann Heller (Prague, 1579–1654), on Mishna Rosh Ha-shana 4:8; the Mishna there states that one may not violate the restrictions of the festival in order to obtain a shofar, and Heller notes that the same applies also to obtaining the species of vegetation for Sukkoth.

*xxix*

See Babylonian Talmud, Menaḥoth 44a:

**חלזון זהו גופו דומה לים, וברייתו דומה לדג, ועולה אחד לשבעים שנה, ובדמו צובעין תכלת; לפיכך דמיו יקרים.**

The *ḥillazon* [a kind of snail] – its body is similar to [the color of] the sea, and its form is similar to a fish, and it ascends [from the sea] once every seventy years, and we dye *tekheleth* from its blood; therefore, it is expensive.

In the mid-­ninth century, *tekheleth* still existed among Rabbanite Jews, for Rav Naṭronai Gaon, head of the academy of Sura (in Iraq) at the time, speaks about their method of tying the *tekheleth* strings among the white strings. (Cited in Abraham ben David, *Critiques of the Ra’avad on the Rambam*, on Maimonides, *Hilkhoth Ẓiẓith* 1:7.) However, at some point later in time, the identity of the *ḥillazon* was lost. In modern times, starting in the nineteenth century, various attempts to identify the *ḥillazon* were made; the most accepted today is the *Murex trunculus* snail, and indeed many rabbinic Jews since the mid-­1980s have been dyeing strings of their *ẓiẓith* with dye from this snail. (See the “Tekhelet Timeline” on the website of the institute Ptil Tekhelet: http://tekhelet.com/tekhelet-­timeline/. For more detail, see Baruch Sterman, *Rarest Blue: The Remarkable Story Of An Ancient Color Lost To History And Rediscovered*, Lyons Press, 2012.)

We have rendered the word *yaroq* as *green* (see p. 89), simply out of convenience. Indeed, many rabbinic sages used the term *yaroq* to refer to the color of fringes. This is because up until recent times, Hebrew, like many languages, did not have a unique word for *blue*. We do not know whether our author intended to convey *green* or *some specific shade of blue* with his usage of *yaroq*.

*xxx*

*Note from Tomer Mangoubi*: In addition to requiring a blue thread on *ẓiẓith*, some Karaite sages also believed that women, and not just men, were required to wear *ẓiẓith*. Ḥakham Levi ben Yefeth (eleventh century) was among these sages.

Ḥakham Levi ben Yefeth, *Sefer Miẓvoth*, p. 786:

**ואשר אמר כי זה הדבור הוא על האנשים מבני ישראל, וכי זה המצוה מוסגלה בהם לבד משניהם אינו תמים, והוא כי אין לו ראיה על זה אלא כאשר אמר הכתוב 'דבר אל בני ישראל'. ואנחנו מצאנו כי יש על הנשים מצוות הרבה, וכבר מצאנו בתורות הרבה כי יבוא הדבור ויאמר 'דבר אל בני ישראל' ויכליל בו אנשים ונשים, הוא אשר אמר: 'דברו אל בני ישראל לאמר זאת החיה אשר תאכלו', והאכילה לכל. והטומאה הנזכרה בעניין, והוא חובה על הכל, וכן: 'דבר אל בני ישראל ואמרת אליהם אשה כי תזריע', רוב עניין על הנשים.**

One who says that this passage [Numbers 15:37–­41] is addressed only to the men of the Israelites, and that the commandment [of *ẓiẓith*] is limited to them – neither of these two [claims] is correct, for there is no evidence for it other than that Scripture says *speak to the Bené Yisra’el* [Israelites*,* literally “sons of Israel”]. But we find that there are many commandments that apply to women, where Scripture says *speak to the Bené Yisra’el*, which include both men and women. [Thus, for example, in the laws of kosher animals], it says: *Speak to the Bené Yisra’el, saying: This is the animal that ye shall eat* [Leviticus 11:2] – and eating applies to all. And ritual impurity is discussed in a passage, and it is a matter that applies to all, and it begins: *Speak to the Bené Yisra’el, and say to them: when a woman conceives . . .* [Leviticus 12:2] – and most of the matter concerns women.

Ḥakham Ya‘aqov Qirqisani (tenth century), too, arrived at the same conclusion (*Kitāb al-Anwār wal-marāqib: Code of Karaite Law*, ed. L. Nemoy, Vol. V, XII 42.4, p. 1260):

وأَخبر بأنّ علّة الأمر بلًبْسه هى (במדבר ט"ו, ל"ט) וזכרתם את כל מצוות ה', ועשיתם אותם فَوَجب من ذلك ان يلبسه كل أحد من النساء والرجال اذا كان جميعهم يجب ان يذكرون فرائضَ الله ويعملونها وهذا بخلاف قول مَنْ أوجبه على الرجال دون النساء.

I inform that the reason for the command to wear it is [Scripture’s statement]: *And remember all the commandments of the Lord and do them* [Numbers 15:39]. So, out of this, it is obligatory to be worn by every one of the women and men, since all of them are obliged to remember God’s obligations and do them; and this is different from him who says that it is obligated on men and not women.

Ḥakham Judah Hadassi (twelfth century) likewise held that women were to wear *ẓiẓith* (*Eshkol Hakofer*, chapter 13, p. 14b, column 2):

**קשירתו כי גם היא בת ישראל מבני ישראל בדומה במצות ציצת.**

**קול צווי: "דבר אל בני ישראל ואמרת אליהם ועשו להם ציצת."**

**קדושת מצותו גם האשה בקיום כל המצות ככתוב: "וראיתם אותו וזכרתם את כל מצות ה' ועשיתם אותם" כצווי צורך.**

**רמיזתו ככתוב: "הקהל את העם האנשים והנשים והטף וגרך אשר בשעריך."**

**רפידתו "למען ישמעו ולמען ילמדו ויראו את ה' אלהיכם ושמרו לעשות את כל דברי התורה הזאת תורתך.**

The tying of *ẓiẓith* [includes also women], for a daughter of Israel is included in “Bené Yisra’el,” equivalent in the commandment of *ẓiẓith*.

The words of the commandment are: *Speak to the Bené Yisra’el and say to them that they should make ẓiẓith for themselves* [Numbers 15:38].

The holiness of its commandment is also [upon women], for women are [included in] fulfilling all the commandments, as it is written: *And ye shall see it, and remember all the Lord’s commandments, and perform them in accordance with your Rock’s instruction.*

This is alluded in Scripture’s words: *Gather the people, the men and the women and the children, and the sojourners within thy gates* [Deuteronomy 31:12],

And Scripture spreads out [what that means, in the continuation of this verse]: *In order that they may hear, and in order that they may learn, so that they may fear the Lord your God, and diligently observe all the words of this Torah*, Your Torah.

However, the view that women should wear *ẓiẓith* appears to have fallen out of favor with latter Karaite sages. Both Ḥakham Aaron ben Elijah (fourteenth century), in *Gan ‘Eden*, ‘Inyan Tefilla, chapter 6, p. 80b, column 2, and Ḥakham Elijah Bašyachi (late fifteenth century), in *Addereth Eliyyahu*, ‘Inyan Tefilla, chapter 7, p. 99b, write that the commandment is limited to men. Ḥakham Bašyachi argues that this based on the instruction to speak to the “*Bené Yisra’el*”:

**מצות ציצת חיוב לאנשים הבוגרים, ובפרט לתלמידי חכמים, שחוששים בשכר מצות עשה, ולא לנשים ולקטנים, כי כתוב: 'דבר אל בני ישראל'.**

The commandment of *ẓiẓith* is an obligation for adult men, especially for disciples of the sages, who are concerned about the reward for [fulfilling] the commandments; and not for women or children, for Scripture says: *Speak to the Bené Yisra’el [literally: “Sons of Israel”].*

*Note from Gabriel Wasserman*: Similarly, among the Rabbanites, there was an older view that the commandment of *ẓiẓith* applied also to women, but later rabbis ruled that it applied only to men. A *baraitha* in the Babylonian Talmud, Menaḥoth 43a states:

**הכל חייבין בציצית – כהנים, לוים, וישראלים, גרים, נשים, ועבדים. רבי שמעון פוטר בנשים, מפני שמצות עשה שהזמן גרמא הוא, וכל מצות עשה שהזמן גרמא נשים.**

All are obligated in *ẓiẓith* – priests, Levites, Israelites, converts, women, and slaves. R. Shim‘on [ben Yoḥai, second century CE] says that women are exempt, for it is a time-­bound positive commandment [for, according to Rabbanite understanding, it does not apply during the night time], and women are exempt from all time-­bound positive commandments.

The later Rabbinic authorities follow R. Shim‘on’s exemption of women from *ẓiẓith*; see, e.g., Maimonides, *Hilkhoth Ẓiẓith* 3:10.

*xxxi*

Babylonian Talmud, Shabbath 129b:

**ואמר שמואל: פורסא דדמא –­ חד בשבתא, ארבעה, ומעלי שבתא; אבל שני וחמישי -­ לא, דאמר מר: מי שיש לו זכות אבות יקיז דם בשני ובחמישי, שבית דין של מעלה ושל מטה שוין כאחד. בתלתא בשבתא מאי טעמא לא? משום דקיימא ליה מאדים בזווי.**

Shemuel said: The times to bloodlet are Sunday, Wednesday, and Friday – but not Monday or Thursday, for a teacher has stated: [Only] one who has ancestral merit may bloodlet on Monday or Thursday, when the heavenly court and earthly court are synchronized. Why not on Tuesday? Because Mars is then in the corner.

*xxxii*

Babylonian Talmud, Bava Meẓi‘a 21b:

**המוצא מעות בבתי כנסיות ובבתי מדרשות ובכל מקום שהרבים מצויין שם הרי אלו שלו מפני שהבעלים מתיאשין מהן.**

One who finds coins in synagogues or in study-­houses, or in any place where many people are found – the [coins] belong to [the finder], for the [original] owner has lost all hope of [recovering] them.

*xxxiii*

Mishna Giṭṭin 9:10:

**בית שמאי אומרין: לא יגרש אדם את אשתו אלא אם כן מצא בה דבר ערוה, שנאמר: 'כי מצא בה ערות דבר.' בית הלל אומרין: אפילו הקדיחה תבשילו, שנאמר 'דבר'. רבי עקיבא אומר: אפילו מצא אחרת נאה ממנה, שנאמר: 'והיה אם לא תמצא חן בעיניו'.**

The School of Shammai say: A man must not divorce his wife unless he has found her [guilty of] a sexual indiscretion, as it is said: *for he has found some nakedness in her*. The School of Hillel say: Even if she has burned his food, as it is said: *some* [that is, anything]. R. ‘Aqiva says: Even if he has found a prettier woman, as it is said: *that she find no favor in his eyes*.

The normative Rabbanite halakha follows the opinion of the School of Hillel (see commentary of Obadiah of Bertinoro on that passage, in the standard editions of the Mishna).

*xxxiv*

Mishna Makkoth 3:10:

**כמה מלקין אותו? ארבעים חסר אחת, שנאמר: במספר ארבעים – מניין שהוא סמוך לארבעים. רבי יהודה אומר: ארבעים שלמות.**

How many does one lash? Forty minus one [*i.e.*, 39], as it is said *Number forty* [the last word of verse 2 and the first word of verse 3], meaning the number adjacent to forty. R. Judah says: A full forty.

*xxv*

SeeBabylonian Talmud, Sanhedrin 38b:

**אמר ההוא מינא לרב אידית: כתיב: ואל משה אמר עלה אל ה' – עלה אלי מיבעי ליה! אמר ליה: זהו מטטרון ששמו כשם רבו דכתיב: כי שמי בקרבו.**

A certain heretic said to Rav Idith: “It is written: *And to Moses, He said: Ascend to the Lord.* [Ex. 24:1] Should He not have said: ‘Ascend to me’?” [Rav Idith] responded: “This is Meṭaṭron, whose name is like that of his Master, as it is written: *For my name is in him*.”

For the expressions, “the Great Name” and “the Lesser Name”, see the commentary *Ḥizquni*, by Hezekiah ben Manoaḥ, on Exodus 23:21.

*xxxvi*

Our author writes: “Moreover, [the Rabbanites] stubbornly permit [a man to marry his] father’s wife; and a father will marry a woman, and his son marry her daughter.” In fact, Rabbanite halakha does not allow marriage between a man and his father’s wife. This is prohibited in Leviticus 18:8, and it is clear that Rabbinic halakha views it as a terrible sin; see Mishna Sanhedrin 7:4, which states that the punishment is stoning. In the Babylonian Talmud, on that passage (Sanhedrin 54a), it states that this such marriage is prohibited whether or not the father is still alive.

On the other hand, Rabbanite halakha does permit marriages between a man and his father’s wife’s daughter, that is, his step-sister. Leviticus 18:11 states: *Thou shalt not uncover the nakedness of the daughter of thy father’s wife, moledeth* *of thy father.* Rabbanite tradition understands “*moledeth* of thy father” as meaning “born of your father”, that is, one’s actual sister or half-sister. Because a man’s step-sister is not a biological daughter of his father, Rabbanite halakha permits a marriage between the two. (This is assumed throughout Talmudic literature, but the clearest explanation of the exegesis of the verse can be found in Maimonides, *Mishné Tora*, *Hilkhoth Issuré Bi’a* 2:3.)

Nonetheless, in the Palestinian Talmud, Yevamoth 2:4, it states that if two step-siblings have grown up in the same house, they should not marry one another – not because it is inherently forbidden, but because it will look like two siblings have married. In that passage in the Palestinian Talmud, R. Ḥanina bar Abbahu permits such a couple may move to somewhere where nobody knows them, and get married there.