

Legal Heritage as a Basis for the Protection of Freedom and Equality. Example of the Karaites

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Abstract

The article offers a vision of the problem of protection of freedom and equality through the study of the legal heritage of the Karaite people. The totality of legal traditions, the orientation of the life of Karaites to the strengthening of historical and legal values are studied. The starting point of the discussion is three approaches to the question of the origin of the Karaite people. Particular attention is paid to the totality of values reflected in the religious and political culture of Karaites. The author used the literary heritage of the Karaite people, referring to the lines of the poetic work of Simonas Firkovicius, journalistic generalizations of the Karaite magazines "Karaite Word" ("Karaimskoye Slovo") and "Karaite Thought" ("Mýsl Karaimska"), as well as scientific works of modern scholars. It is shown how the concepts of "freedom" and "equality" were enshrined in the legal heritage of Karaites, the formation of which took place under the influence of Jewish and Muslim philosophers. Legends about Anan Ben David and Abu Hanifa are given. Based on the materials of the study, it becomes obvious that the Grand Duchy of Lithuania, Rus and Semigotia tolerated different religions and cultures. This tradition is closely integrated into the modern Lithuanian legal culture. However, there are still numerous questions about the boundaries and subjects of such a tolerant attitude. This is due to the fact that there are contradictions in approaches to the study, restoration and interpretation of historical events and facts. As a result, they complicate the reconstruction of legal history. The sources of the legal history of Karaites are extremely limited and require further research and interpretation. The author of the article substantiates the hypothesis that one of the best approaches to promoting democracy in the state is to protect the most vulnerable categories of the population. It is then that cultures mutually enrich each other and contribute not only to cultural but also to economic development. The historical example of the relationship between Karaites and the Lithuanian-Ruthenian-Semigothic society is a clear example of how a minority, without assimilation, becomes an active part of the state.

Keywords: equality, freedom, human rights protection, Karaites, legal heritage.

JEL Classification: K33

1. Introduction

The history of mankind contains many riddles, which, no matter how difficult it may seem, can be solved through the reconstruction of certain events, correct interpretation of disparate monuments of material and spiritual culture. Reconstruction of notions and concepts based on legal documents of the past epochs, as well as values, fixed in the political culture of the people, can provide us with sufficiently accurate results. Understanding that legal heritage is a complex of legal phenomena and circumstances, supported over a long period of time by society and developed in the norms of law, I decided to analyze the documents of non-material culture (normative

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compilations of different eras, philosophical works and teachings) belonging to the Karaite people.

It was interesting to cover the legal heritage of the people, which contains a large number of controversial issues. And Karaites are a people whose origin and life are shrouded in mystery and myths. This small-numbered people managed to survive in times of persecution and wandering. Karaites have preserved their culture and identity and have made their special contribution to the development of the states of the titular nations. We believe that the ethical concepts formulated by Anan Ben David, the views of Abu Hanifa, some provisions of Islamic law, became the basis for the formation of one of the most democratic religious movements – Karaism. And Karaism, in turn, not used by spiritual leaders to govern the people, gave room for the ideals of freedom and equality having roots in society, became a shield of the identity of the Karaite people, connecting them with the past and guiding them into the future.

Following the logic that history is a source of practical wisdom, I hypothesize that one of the best ways to protect democracy as a phenomenon of state-legal life is to protect the most vulnerable categories of the population.

2. Theories of the origin of the Karaite people

Perhaps the most difficult problem that determines the essence and a degree of objectivity of my research has become the theory of the origin of the Karaite people. Discussions about the ethnogenesis of Karaites go back more than two hundred years. Scholars (including historians, archaeologists and ethnologists) propose at least three theories that determine the origin of Karaites: 1) Khazar, 2) Jewish, 3) “synthetic”, combining the assumptions of the first two theories.

Supporters of the Khazar theory believe that Karaites are descendants of Khazars, Cumans, and other Turkic peoples who inhabited the territory of Eastern Europe, the lands of the Northern and Eastern Caucasus, and territories extending to Central Asia². According to researchers, Khazars appeared in Crimea in the 670^s - 870^s, and in the second half of the 11th century the Crimean steppes were invaded by Kipchaks and Cumans³.

The Khazar theory of the origin of Karaites is elaborated now, *inter alia*, by the Lithuanian scholar Dovile Troskovaite. She states that the Karaite language was “formed in the territory between the Caspian and Black seas, where the culture of Khazars prospered”. Here she referring to authoritative Polish researchers Symon Szyszman and Tadeusz Kowalski, who believe that Karaites maintained the Khazar culture; and citing the poem *Batyr bijin tamaša aty* (*The Magic Horse of the Grand Duke*, 1933), which was written by Simonas Firkovičius – Karaite priest in Lithuania, writer, and poet:

Duke, You are – the only one, like the Lord in heavens!

We heard in the old country of Solchat,

² Martin, M.M. (2021). *"Khazar myth" in the historical thought and national discourse of the Crimean Karaites (late 18th - early 21st centuries)*. Dissertation for the degree of candidate of historical sciences Drohobych. p. 15; Green, W. (1984). „The Fate of the Crimean Jewish Communities: Ashkenazim, Krimchaks and Karaites”. *Jewish Social Studies*, 46 (2), 169–176. P. 170-171.

³ Bekirova G., Ivanets A., Tyshchenko Yu., Gromenko S., Ablaev B. - K., *History of Crimea and the Crimean Tatar people. Study guide*. "Crimean Family"; "Master of Books", 2020. p. 28, 29.

That the flocks of kipchaks in the north dense forest
Are laid down by your hand, strong and spirited.
(...)

The Great Vytautas looked out from the castle window, and said to the women in Karaite language⁴.

The final conclusion could be given by DNA research of Karaites. However, here we are faced with conflicting information. D. Shurkhalo provides information about the DNA test that rejects the theory of Khazar origin of Karaites and claims that Khazars are part of Jews who lived in Crimea during the time of Crimean Khanate and adopted the Tatar language⁵. At the same time, on the website "Crimean Karaites" link is proposed to results of the study by the N.I. Vavilov Institute of General Genetics of the Russian Academy of Sciences and the Medical Genetic Research Center, which indicates the absence of "obvious genetic proximity of Karaites with groups of Jews" and concludes that Karaites belong to the Turkic group of the Altai family of peoples⁶.

There is also an uncertainty in the study of the Khazar theory. Polish linguist, Turkologist and Karaite scholar Henryk Jankowski concluded that "the question of Khazar Karaim may not be settled because of the lack of evidence"⁷.

Another author – Marjorie Mandelstam Balzer – continues the logic of Henryk Jankowski. Studying the Khazar Khaganate from the position of anthropology and archaeology, she came to the conclusion about the unknown origin of the Khazars, where they came from, where to search the capital of the Khazar state and what religion they adhere⁸. This uncertainty, in my opinion, only brings Khazars and Karaites closer. And, as one can see, the basis for the discussion around the origin of Khazars and Karaites is one and the same – belonging to Judaism.

The logic of the theory of Jewish origin of Karaites is connected with the understanding that the spiritual teachings of Karaites are based on the proving the errors of the Rabbanites. It is believed that the Karaite doctrine was created by descendants of dissident sects of the First Temple period [Barnavi]. The same opinion is held by W. Green⁹.

The "synthetic origin" of Karaites is relying on literary sources. For example, in the poem "Jukla, uvlum, jukla" ("Sleep, son, sleep") by the Karaite poet Simon Kobecki,

⁴ Troskovaite, D. (2013). „Identity in transition: The case of Polish Karaites in the first half of the 20th century”. *Codrul Cosminului*, 19 (2), 207-228. P. 221, 223.

⁵ Shurkhalo, D., *Khazars: what they were and how they became the "ancestors" of the Ukrainian Cossacks*. Radio Svoboda. <https://www.radiosvoboda.org/a/hozary/30695198.html>.

⁶ We can't assess the quality of the presented scientific work due to the fact that the modern history of Ukraine has been repeatedly falsified by authors belonging to Russian scientific centers. Ref.: Efetov, K. *The origin of the Crimean Karaites in light of the latest genetic data. Crimean Karaites*. <https://karai.crimea.ru/1032-proisxozhdenie-krymskix-karaimov-v-svete-poslednix-dannyx-genetiki.html>.

⁷ Jankowski, H., *The Question of the Existence of the Crimean Karaim and its Relation to Western Karaim* in Tamara Bairašauskaitė, Halina Kobeckaitė, Galina Miškinienė, *Orient in the Social Tradition of the Grand Duchy of Lithuania: Tatars and Karaims*. A collection of articles prepared from reports read at the international scientific conference "610th anniversary of the settlement of Tatars and Karaims in the Grand Duchy of Lithuania" in 2007. September 13-15 Vilnius University, on the basis of Vilnius University Publishing House, Vilnius, 2008, p. 161.

⁸ Balzer, M.M. (2018) Editor's Introduction: „The Khazar Khanate: Debates and Mysteries,” *Anthropology & Archeology of Eurasia*, 57:4, 269-273. p. 272. DOI: 10.1080/10611959.2018.1547610.

⁹ Green, W. *op. cit.* (1984), p. 170.

two Karaite "holy places" – Zion or the Holy Land and Trakai – are glorified. Perhaps the historical memory and the origin of the Karaite people should be judged based on the phrase: "Let the Zion be the purpose of your hopes and Trakai – the object of your thoughts". According to D. Trotskovaite, this phrase testifies to "the separation of religious and secular homelands, and mark the changes in the self-consciousness of the community"¹⁰.

The question arises about the language of communication of Karaites. It is known that at various stages of their existence, Karaites spoke at least several languages common in the regions where they lived. The reason that for most of their history Karaites spoke a language of Turkic origin, close to the Crimean Tatar language, can be explained by the geography of the Karaite society. Golda Akhiezer claims that Karaites who came to the territory of the Byzantine Empire spoke Arabic and did not know Hebrew sufficiently, unlike Arabic and Greek¹¹.

Understanding the essence of the medieval movement of peoples, the fact that Karaites became the heirs of the "people's fusion" that emerged from the merger of old Karaites and Khazars becomes obvious¹².

It is important to underline that research on the Karaite language is difficult due to limited resources. Karaites living in Ottoman Empire from 16th till 18th centuries did not use the Karaite language, but wrote their pieces in Greek or standard Turkish¹³. Obviously, this was the tradition followed by the inhabitants of the region at that time.

Perhaps, to identify the origin of Karaites, the logic of the *principle of self-identification* used to define indigenous peoples would be correct. This refers to the provisions of Art. 1 (2) Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labor Organization¹⁴. And here it is appropriate to cite the arguments of the Karaite academics themselves. According to an authoritative Karaite scholar with reference to a whole group of other experts, "*the Karaite language was formed around the IX-X centuries on the basis of the languages of the Turkic tribes that inhabited the Khazar Khaganate (Khazars, Kipchak-Cumans, or Polovtsians) and adopted the Karaite faith, which together on the basis of these communities and united them into a people, turning the name of the religion into an ethnonym. It is the descendants of these tribes are ethnic Turkic Karaites, who once lived mainly in the Black Sea steppes and Crimea. In their self-consciousness, the Khazar origin as an element of identity occupies a very important place*"¹⁵.

The analysis of the socio-political thought reflected in Karaite publications once again leads to the conclusion about the ambiguity of the origin of Karaites. Having

¹⁰ Trotskovaite, D., *op. cit.* (2013), p. 222-223.

¹¹ Akhiezer, G. (2012). "Byzantine Karaism In The Eleventh To Fifteenth Centuries". In Robert Bonfil, Oded Irshai, Guy G. Stroumsa, and Rina Talgam (eds.), *Jews in Byzantium*. Leiden, The Netherlands: Brill. p. 726.

¹² Firkovich, Z. A. (1890) *Collection of ancient charters and laws of the Russian Empire concerning the rights and status of Russian subjects Karaites*, St. Petersburg: Leshtukovskaya steam printing house of P. O. Yablonsky. XXXVI, p. XII.

¹³ Jankowski, H., *op. cit.* (2008), p. 164.

¹⁴ Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labor Organization, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REV,en,C169,/Document.

¹⁵ Galina Kobetskaitė, *Factors of preservation of ethnic identity by Lithuanian Karaims*, Tamara Bairašauskaitė, Halina Kobeckaitė, Galina Miškinienė, *op. cit.*, p. 265.

analyzed Karaite journals ("Karaimskoye Slovo" and "Myśl Karaimska") published in Vilnius between 1913 and 1939, Veronika Klimova concluded that: "*In Karaimskoye Slovo, Karaites identified themselves as Israelites; in Myśl Karaimska, some high-level representatives openly emphasized their Turkic origins*"¹⁶.

In these sources V. Klimova discovered more important arguments in favor of the differences between Karaites and Rabbanites: 1) they refused to intermarry or to bury their dead in the same cemeteries; 2) they avoided eating together; 3) they were different by appearance, households, dialects and religious practices, holidays, time calculation, calendars, their prayer books and literature¹⁷.

It is known from the "Collection of ancient letters and laws of the Russian Empire concerning the rights and status of Russian-subordinate Karaites", prepared by the Karaite researcher Zarya Abramovich Firkovich and published in 1890, that in 1835 the Karaite community received a new official name - "Russian Karaites of the Old Testament religion" (later - simply "Karaites"). In 1837, they were granted a separate status, close in terms of rights to the status of the Mohammedan clergy¹⁸.

Summarizing the above inferences, it is necessary to state that in the simplest and most general description, the Karaites are a Turkic group of the Altaic family of peoples, whose ethical concepts were formed on the basis of the Old Testament and assume its free interpretation.

Despite numerous contradictions, lack of analytical information, the synthetic theory of the origin of the Karaites looks the most probabilistic and logical.

3. Religious values as a basis for the formation of legal norms

If we consider the theories of the origin of the Karaite people, it will become obvious that religion predetermined the "shakiness" of any of the concepts considered above. As M. M. Balzer noted, "...the sharpest debates proceed about the Khazars center on their Jewishness, because their association with the Jewish religion has made them a target of those who would conflate ethnicity with religion and succumb to retrospective anti-Semitism"¹⁹.

If we study the history of the origin of spiritual tenets of Khazars and Karaites, we can find many similarities. Being at the intersection of Christianity, Islam and Judaism, seeking the support of a wider population, Khazars needed a synthetic religion. As D. Shurkhalo notes, not being able to become followers of the Jewish faith, Khazars had to adapt, and became free interpreters of the "Bible"²⁰. And this is the essence of Karaism.

But being at the crossroads of several cultures and confessions also played a different role. Today's Karaism and Karaites themselves adhere to a median line in matters of human existential development. The specifics of the religious morality of Karaism determine the social, and in the future, legal norms for the development of the

¹⁶ Klimova, V. (2021). „Karaite self-perception: A study of two Vilnius periodicals Karaimskoye Slovo and Myśl Karaimska”. *Scripta Judaica Cracoviensia*, Vol. 19, 65–77. P. 65.

¹⁷ Ibid, p. 69-70.

¹⁸ Firkovich, Z. A. *op. cit.* (1890), p. XVI.

¹⁹ Balzer, M.M. *op. cit.* (2018), p. 272.

²⁰ Shurkhalo, D., *op. cit.*

Karaite secular society. An outstanding feature of Karaism from the first days of its existence remains pluralism of thoughts and schools”²¹.

In various historical sources, Anan ben David²² is called the spiritual creator of Karaism, who “recognized the honor of Moses, Jesus Christ and Muhammad as the honor of the three prophets”²³. The features that define the teachings of Anan include: 1) belief in the immortality of the soul and the transmigration of souls; 2) rejection of the determining role of the clergy; 3) the right of believers to free interpretation of Holy Scripture. Man bore personal responsibility before the Almighty and was guided by reason, conscience, and personal ideas about the good²⁴.

As we see, the values of the teachings of Anan ben David gave the individual a space for reflection and development, the need to take responsibility for one’s own life and improve it.

From one of the legends, we know how Anan ben David taught his students: "This is just my opinion. And you search carefully in the Torah and do not rely on my (or anyone else's) opinion”²⁵.

This approach cultivated freedom and equality in society. These ideas were later embodied in the everyday life of Karaites.

There is another legend, according to which Anan ben David, who escaped punishment for the split of the Jewish community and rebellion against the caliph, thanks to his deep knowledge of the Torah and the ability to logically interpret its postulates, received the patronage of the caliph. It is interesting and important to know that in the same prison where Anan ben David was placed, the Islamic theologian, scholar and jurist Abu Hanifa was held²⁶.

Studying the context of Abu Hanifa's teaching, one can easily notice the author's high level of criticality: «*Abu Hanifa thought to himself: If I attain the utmost [competence] in that, I would seek to treat children to it. But if a group assembles around me or comes to me, and I then bring out the unusual reports (tara'if) that I have collected, they would say, "Liar!" and it would disgrace me until the Day of Judgement*»²⁷.

Conferring to Oleksandr Dzyuba, "Abu Hanifa was a democrat of his time: according to his beliefs, the ruler of the Islamic state should be under the comprehensive control of the Muslim community”²⁸. Anan ben David's existential vision crystallized under the influence of the Islamic thinker who freely reflected on the essence of the organization of power in the state. Of course, the intellectual heritage of Anan ben David

²¹ Martin M. M., *op. cit.*, p. 12. Details also in: Ankori, Z. (1959) *Karaites in Byzantium: The Formative Years, 970 - 1100*. New York: Columbia University Press, XIII. p. 3.

²² Cohen, M. A. (1978). „Anan Ben David and Karaite Origins”. *The Jewish Quarterly Review*, 68(3), 129–145. P. 132. <https://doi.org/10.2307/1454289>.

²³ Kolodny A., Sagan O. (2013) „The religious nature of the Karaites and their right to religious buildings/20 years of the Ukrainian Association of Religious Scholars. Collection of works and informative materials”. *Ukrainian Religious Studies*. No. 65, Kyiv. p. 147.

²⁴ *Ibid*, p. 147.

²⁵ Dzyuba, O. *In the ways of the Karaites. The legend of Anan ben David. Voice of Crimea*, <https://culture.voicecrimea.com.ua/uk/shliakhmy-karaimiv-lehenda-pro-anana-ben-davyda/>, p. 15.

²⁶ Details of the legend in: Schechter, S. (Ed.). (1970). *Documents of Jewish Sectaries* (Vol. 1). KTAV Publishing House, Inc. p. 11-12; Cohen, M. A. (1978). *op. cit.*, p. 132. <https://doi.org/10.2307/1454289>.

²⁷ Dickinson, E. (1996). „Ahmad b. al-Salt and his biography of Abu Hanifa”. *Journal-American Oriental Society*, 116, 406-417. p. 417.

²⁸ Dzyuba, O., *op. cit.*

is not the only source of the creation of Karaism, and later Karaim law. G. Akhiezer writes about such inspirers of Karaite ideology, as Sahl ben Maṣliāḥ (polemicist), Salmon ben Yeruḥim (polemicist and exegete), Joseph ben Noah (grammarian and exegete), Abū'l Faraj Hārūn (grammarian), Yefet ben 'Eli (exegete), Levi ben Yefet (legalist), Yūsuf al-Baṣīr (Joseph Ha-Ro'eḥ, euphemistically "The Blind," legalist and theologian), Yeshu'ah ben Judah (legalist, exegete and theologian), and David ben Abraham al-Fāṣī (grammarian and exegete)²⁹.

When reconstructing Karaite history, the Karaite gaham (spiritual leader), linguist, orientalist Seraya Shapshal (1873 – 1961), noticed that "Karaites confess the Old Testament in its primary purity, alike the Christian Church. Anan³⁰ accepted Jesus Christ as the [God] sent prophet, and declared Muhammad as the prophet as well"³¹. This allowed Karaites to separate themselves from Judaism and Islam, combining in their teachings the most daring and progressive, even from today's point of view, concepts.

The diversity of ideas, spiritual directions and interpretations, the forced mobility of the settlement of Karaites, led them to a specific identity that combines the traditions of an entire group of peoples.

4. Political and legal traditions of Karaite society

Oliver Wendell Holmes, one of the founders of American Realism, while describing the essence of the action taking place in court, very clearly noted: "*The life of the law has not been logic: it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow-men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed. The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics...*"³². In relation to our research, this means that the entire range of political and legal phenomena and conditions that determine the creation of a legal norm during the long process of development of Karaite society is essential for the reconstruction of its ethical essence.

Above, I have already mentioned that my research is based on the legal heritage of the Khazar Kaganate. Here again it is necessary to make certain clarifications. Considering the political and legal organization of the Khazar Kaganate, we encounter two opposing approaches among historians:

1. Khazaria during the early Middle Ages was an oasis of education and civilization. This fact was confirmed by historians in the first half of the 19th century³³.

2. M. M. Balzer doubted that "an originally steppe nomadic Turkic people could have been capable of sustained tribute-taking from or even enslaving of Slavic

²⁹ Akhiezer, G. *op. cit.* (2012), p. 724.

³⁰ Cohen, M. A. *op. cit.* (1978), p. 132.

³¹ Troskovaite, D. *op. cit.* (2013), p. 224.

³² Holmes, JR., O. W. *The Common Law*. The Manhattan Rare Book Company. <https://www.manhattanrarebooks.com/pages/books/2247/oliver-wendell-holmes-jr/the-common-law? soldItem=true>.

³³ Martin, M.M. *op. cit.* (2021), p. 50.

peoples”³⁴.

Such a situation with scientific data requires further research by historians and archaeologists and limits our opportunities in terms of legal heritage analysis³⁵.

What historical facts are available to us and what conclusions can I draw from them?:

1. Decision-making both in religious and legal spheres among Karaites was based *on discussion and, as a result, consensus*.

2. Karaism contained certain *restrictions*.

3. Byzantine Karaites studied with the *best thinkers in Jerusalem*, gaining an even greater understanding of freedom as a principle of law.

4. Islam had a *positive influence* on the development of Karaism and Karaite society.

Here are my arguments:

1. The source of the formation of the legitimacy of a legal document among Karaites is indicative. Judith Olszowy-Schlanger with reference to the tenth-century Karaite thinker, Ya'qub al-Qrḳisani, observed that “the binding authority of legal documents, similarly to that of all other Karaite laws and customs, derives from one of three legal principles: the text of the Hebrew Bible, the use of analogy (*al-qiyās*) and the consensus of the nation as a whole (*al-ijmāʿ*)” ... They are included in the Karaite Prayer Book (*Siddur ha-T* still in use today)³⁶. I believe that analogy and consensus are evidences of critical thinking, alternative, diversity inherent in Karaite law enforcement. Criticism, alternative and diversity are a methodology for realizing personal freedom of liberty and an indicator of the opportunities that exist in society.

2. The most authoritative thinker of the mid-12th century, Judah ben Elijah Hadassi Ha-ʿAvel, “encompasses the issues of halakhah, exegesis, philosophy, linguistics, and polemics against Rabbanites, Christianity, and Islam”³⁷. The presence of polemics is in itself evidence of the presence of freedom of thought in society.

It is noteworthy, however, that Hadassi proposed to approach holy doctrine with caution and a certain firmness: “If you see two scholars—one of them is rigid and another is alleviating in his observance, and you cannot decide whose opinion is preferable, do not alleviate, but be rigid in your observance of Torah”³⁸. It can be assumed that the limitations in the understanding of spiritual tenets were due to the intention to protect the quality of the faith, religious particularity and Karaite’s social community.

3. While studying the history of the philosophical views of Karaites, G. Akhiezer came to the conclusion that the “Jerusalem school elaborated a new interpretation of Karaite law, especially concerned with such topical issues as incest legislation (*rikkub*), which the Jerusalem scholars, such as al-Basīr and Yesu’a ben Judah tried to liberalize”³⁹.

³⁴ Balzer, M.M., *op. cit.* (2018), p. 272.

³⁵ G. Akhiezer suggests to research of Byzantine and early Ottoman archival material concerning Byzantine Karaites, and all Karaite Byzantine treatises printed and censored in the Russian Empire and Greek literature and language on Karaite literature. Look: Akhiezer, G. *op. cit.* (2012), p. 758.

³⁶ Olszowy-Schlanger, J. (2003) *Karaite Judaism. A Guide to its History and Literary Sources*. Ed. by Meira Poluack, Brill Leiden, Boston, p. 262.

³⁷ Akhiezer, G. *op. cit.* (2012), p. 728, 729.

³⁸ *Ibid*, p. 730.

³⁹ *Ibid*, p. 725.

It is important to know, and there is historical evidence for this, that the unique Byzantine tradition of Karaites arose in connection with the translation of Karaite literature from Arabic into Hebrew. It is also important to remember that the creation of a new philosophical and legal vision was influenced by the Rabbanite tradition. This fact is confirmed by many scholars. While J. Olszowy-Schlanger suggested that it was "crystallized in Babylonia, probably around the end of the ninth century", G. Akhiezer explained in detail how and why this happened. "Byzantine Karaites, – G. Akhiezer writes, – went to Jerusalem to study from famous scholars of the holy city, and thus they strengthened connections between both communities, while preparing a new generation of scholars and community leaders in Byzantium"⁴⁰.

From the work of G. Akhiezer we learn that "Karaites were one among several Jewish legal schools (comparable to the madhhab in Islam)"⁴¹. We can conclude that the Karaite spiritual idea became quite rational. For this reason, it has survived to this day and has many followers all over the globe.

4. The formation of the Karaite law was influenced with norms of Muslim law. As historians note, slavery "played a barely noticeable socio-economic role" in the Crimean Khanate⁴². There were two reasons for this – the high cost of keeping slaves and the impossibility of keeping a co-religionist in slavery (slaves changed their faith for this purpose). Also, in "Crimea, there was a custom according to which slaves were freed from slavery after seven years"⁴³. This shows that despite the widespread use of slavery in modern times, the rules of Muslim law provided the duty to free oneself from slavery. Thus, we can conclude about the strengthening of humanistic tendencies in Islamic teaching. We assume that for the reason of ethnic (partially spiritual) closeness of Muslims and Karaites we do not find mentioning of slavery in the hagiography of the Karaites.

How did civil proceedings look like in the practice of Karaite law?

It is interesting that at the first stages of Karaites' development (8th-10th centuries), their cases were subject to the jurisdiction of different courts, namely the Karaite, Rabanite and Muslim courts⁴⁴. Trying to preserve their individuality and being endowed with the rights necessary for this, family matters were considered by the Karaite court. In the Karaite documents no direct prohibition was found to apply to the Rabanite courts. J. Olszowy-Schlanger discovered evidence that Karaites had their own legal and court system⁴⁵. Karaites' courts existed in Palestine, namely Jerusalem, Ramle, Fustat, and in Cairo, where lived the largest number of Karaites⁴⁶. And if so, it is logical to talk about a certain level of Karaite's autonomy.

How the legal structure of Karaite communities looked like in 11th-13th centuries?

There is an opinion that after the collapse of the Khazar Kaganate in the 11th century, Karaites retained their independence in the Kirk-Yer district (near

⁴⁰ Ibid, p. 725.

⁴¹ Ibid, p. 724.

⁴² Bekirova G., Ivanets A., Tyshchenko Yu., Gromenko S., Ablaev B., *op. cit.*, p. 43.

⁴³ Ibid, p. 43.

⁴⁴ Olszowy-Schlanger, J. *op. cit.* (2003), p. 261.

⁴⁵ Ibid, p. 263.

⁴⁶ Ibid, p. 263.

Bakhchisarai), were recognized as an autonome political unit and retained self-government, benefits and guarantees provided by a special Khan's yarlyk⁴⁷. Ukrainian scholar Oleksiy Kresin describes their status quite comprehensively: "Karaites had internal self-government, fortress and garrison, elected secular and spiritual head, their community was subjected directly to khan. They had taxes and duties privileges. Main privileges were recorded in special charters – tarhan yarlyks. The trial was carried out Karaites by khan's governor and Karaite elders. Fundamentals of law was Old Testament"⁴⁸.

This historical period, in my opinion, requires additional study and documentary confirmation. We assume that Karaite society managed to preserve the characteristics of its culture and faith. But what was the reason for their relocation to the Grand Duchy of Lithuania, Rus, and Semigotia? Were the Karaites captives or freemen invited to serve the Grand Duke?

Here is a fragment of the work of V. Klimova: "*And it happened in 4978, in 1218 of the Christian era, the Grand Duke of the Duchy of Lithuania, called Witold Jagiello, the son of Queen Bona, went to war against the Crimean Tatars in the Crimean Empire of the Khan. He defeated them, invaded Crimea and took much booty and a great number of prisoners among the Tatars. When leaving Crimea, he took and carried away the (people) among the Karaites from Solkhat, called Old Crimea – 483 Karaite homeowners; families in their language – and brought them to Lithuania*"⁴⁹.

It turns out that Karaites were prisoners?

However, continuing her research, V. Klimova mentions the privileges and land granted to the Karaites⁵⁰.

Moreover, in the Lithuanian historical tradition, in the works of Karaite researchers, we repeatedly come across the conclusion that Karaites were invited to Trakai. And the logic of such arguments is clearly visible⁵¹. Karaites were excellent warriors. Hence it is logical that for their faithful service they deserved special treatment and a special status in the Grand Duchy of Lithuania, Rus, and Semigotia.

Sources indicate that the Karaite community of the 15th century was governed by a *voit* elected by its members, who had all executive and judicial powers, and was subordinate only to the king. Galina Kobetskaite, a modern Lithuanian researcher of Karaite origin, has found evidence of the Lithuanian-Rus state's tolerance towards various religions and cultures. In accordance with this status, Karaites freely professed their religion, built their temples, hired the Christian population for auxiliary work, preserve their identity⁵². The Karaite magistrate could only consider civil disputes.

⁴⁷ Kolodny A., Sagan O. *op. cit.* (2013), p. 148.

⁴⁸ Kresin, O. (2016) „Law and State of Crimean Khanate (Some Theses)". *Juridical Journal*, No. 168, p. 117.

⁴⁹ Klimova, V. *op. cit.* (2021), p. 176.

⁵⁰ Ibid, p. 176.

⁵¹ "According to an old legend handed down by generation after generation of Tatars, the invincible king Vatut Biy (i.e., Grand Duke Vytautas, whose cult is quite strong in the Karaim tradition) brought 380 Karaim families to Lithuania in 1397, after the war against the Golden Horde", read in: Šiaučiūnaitė-Verbickienė, J. (2002). *The Karaims. Peoples of the Grand Duchy of Lithuania*, edited by Grigorijus Potašenko, Vilnius: Aidai. 83-89. P. 83.

⁵² Galina Kobetskaitė, *Factors of preservation of ethnic identity by Lithuanian Karaims*, Tamara Bairašauskaitė, Halina Kobeckaitė, Galina Miškinienė, *op. cit.*, p. 265.

Disputes between Karaites and other inhabitants of Trakai were adjudicated by the Voivode of Trakai based on the provisions of the Lithuanian Statute. A separate document of Karaite law – *Code of secular and religious Karaim Law* – was compiled by Eliyahu Beshiyats and Kaleb Afendopulos in 15-16 centuries⁵³.

The logical emphasis placed by Jurgita Šiaučiūnaitė-Verbickienė in her study is interesting and important. She noted that the privileges of Karaites were based on Magdeburg Law and that a similar privilege was not granted to Karaites anywhere in Europe: “The Karaim privilege was a compromise and yet in the same time an original product of the law of the Grand Duchy”⁵⁴.

Another argument in favor of the fact that Karaites enjoyed special privileges, different from the privileges of the Jewish population, are the conclusions of Z. A. Firkovich, who pointed out that in the documents Karaites were called: “Zydzi Troccy Karaimowie”⁵⁵.

J. Šiaučiūnaitė-Verbickienė found that until 1566 (Second Lithuanian Statute) even the nobility was not exempt from taxes, and Karaites paid only an annual tax levy, which was commensurable with the taxes of the Christian inhabitants (1507, privilege of Sigismund the Old)⁵⁶. Such data make our assumption about the special legal status of Karaites even more consistent.

A modern Ukrainian researcher, M.M. Martyn, in his thoughts goes even further, believing that the Karaite community, in fact, was declared a quasi-state entity⁵⁷. We believe that for such a serious statement we need more historical and archaeological evidence.

The legal status of Karaites living in Crimea since its conquest by Russia (1783) has been less favourable. Judging by the findings of Warren Green, Karaites did not have the right to land and were subject to double taxation. But by the summer of 1795 this situation had changed in favour of the Karaite society⁵⁸.

As we can see, the legal status of Karaites was determined based on the level of progressiveness/democracy of their state of residence. It was (and is today) best in the Grand Duchy of Lithuania, Rus, and Semigotia – a state that, by tradition, was tolerant to representatives of national minorities.

5. Equality and freedom as ethical concepts in the modern life of the Karaites

The modern way of life of Karaites was formed under the influence of political transformations that took place in states of their residence. Khazar Khaganate – Golden Horde – Crimean Khanate – Grand Duchy of Lithuania, Rus, and Semigotia – Russian Empire – Lithuania, Poland.

⁵³ Šiaučiūnaitė-Verbickienė, J. *op. cit.* (2002), p. 83.

⁵⁴ *Ibid*, p. 84.

⁵⁵ Firkovich, Z. A. *op. cit.* (1890), p. XII.

⁵⁶ Šiaučiūnaitė-Verbickienė, J. *op. cit.* (2002), p. 85.

⁵⁷ Martin, M. M., *op. cit.* (2021), p. 145.

⁵⁸ “They claimed that their ancestors had been living in the Crimea since the sixth century B.C.E., when King Sennacherib of Assyria brought them to that region after conquering the Kingdom of Israel. They also argued that their ancestors were not in Palestine when the Jews crucified Jesus”. Read in: W. Green, *op. cit.* (1984), p. 170.

It is easy to imagine a horseman of the 7th – 10th century, who was characterized by confidence in his strength and courage. His sense of freedom is natural, his obedience to rules is formed under the influence of tribal traditions. Equality is clear to him as far as this value fits into the idea of a structured society. The Khazar horseman (and later, the Karaite warrior) is not familiar with the idea of equality as a criterion of democratic government. Modern democracy is a phenomenon of the turn of the XVIII-XIX centuries. But our research shows that the specifics of the formation of the religious philosophy of Karaism, based on the need to seek its own, unique approach, to compete with competing confessions (Christianity, Judaism and Islam), gave rise to a special legal style of thinking and legal values. And the horseman I have described did not simply breathe freedom and denied other identities. On the contrary, he adapted himself and became in XI-XIV a skillful warrior, a thinking man and a successful merchant, and later, an industrialist.

G. Beresniavicius writes that "Karaism is the only monotheistic religion whose theology is so tolerant – because each student of the Bible is allowed to come to his own conclusions without paying attention to the opinion of another on the same subject, since the main principle of Karaism is to study the text painstakingly and not to blindly follow the opinion of others"⁵⁹.

Freedom of thought, religion, in this case, gave impetus to the search, personal development, maintenance of ethical and religious self-identification, and tolerance towards other peoples. Thus, freedom paved the way for another important value – cooperation, the ability to maintain it and fulfill agreements (*pacta sunt servanda*).

It can be assumed that the provision on tolerance developed in the Karaite legal culture and under the influence of traditions present in the Crimean Khanate. Analyzing the legal heritage of Crimean khans, we discovered significant provisions on equality and respect for a human person. Oleksiy Kresin notes that among the ethical norms characteristic of the society inhabiting the Crimean Khanate were: "the remedy to share a meal, in common all eaten the same meals"⁶⁰.

The Karaite community was endowed with privileges that allowed it to preserve its self-identity and freedom to realize its historical (religion-based) traditions and customs. In the context of the development of Karaite society, the values of freedom and equality were established not through war with the state-forming people (the titular nation), but through social and legal compromise. Self-realization of Karaites had been adapted to the development of the state-forming people. The vivid example here is the Lithuanian-Rus-Semigotian state, which for many centuries has been protecting and encouraging the development of the Karaite people. Here, the protection of Karaites has become part of legal history.

Historical progress is impossible without the free development of peoples. Any process of "freezing" leads to the gradual degradation of positive qualities in their original form. An unfree people will not be able to develop. But neither will the state-forming people be able to develop. Individual freedom, which does not recognize the value of equality, becomes a destructive force. Equality is the outcome of liberation.

⁵⁹ Galina Kobetskaitė, *Factors of preservation of ethnic identity by Lithuanian Karaims*, Tamara Bairašauskaitė, Halina Kobeckaitė, Galina Miškinienė, *op. cit.*, p. 269.

⁵⁹ Šiaučiūnaitė-Verbickienė, J. *op. cit.* (2002), p. 83.

⁶⁰ Kresin, O., *op. cit.* (2016), p. 116.

Equality strengthens freedom, and solidarity-synthesizes this triad.

The modern way of life of Karaites is based primarily on spiritual values, rituals, cultural traditions and the unity of the people.

Scholars claim that the document defining the values of modern Karaites is the *Catechism, Fundamentals of Karaite Law*, published in 1890 in St. Petersburg⁶¹. This spiritual document could be called a constitution of human soul and society. It combines commandments, symbols of faith and their detailed interpretation, and gives practical life guidelines. Judging by the provisions of the *Catechism*, the understanding of the public good and justice was clearly strengthened in Karaism. Par. 25, "On the duties contained in the Holy Covenant", interprets the meaning of the injunctions and prohibitions, which are to lead "to the good of the follower himself or to the benefit of mankind in general"⁶². This document easily traces the values accumulated by Karaites throughout their history. They have entered the modern life of Karaites and are carefully protected by them.

The Karaites' freedom has its limitations. These limitations are determined by the interests of other members of society. "Like Muslims, Karaites use the principle of analogy and believe in fate. Karaites try to use the Christian commandment of love for one's neighbour in concrete deeds..."⁶³.

These spiritual guidelines have become the basis for the secular life of today's Karaites. Reflecting on the essence of Karaism and the realization of its ideology in modern Karaite society, Timur Kobetsky noted that religion is not used by Karaites to control the masses⁶⁴. And this is perhaps the most important peculiarity of the ethical concepts of Karaism. The life of the people is enabled with the activities of the religious community. And here we agree with theologians and political scientists who believe that "religion is among effective factors (if not the only) in preserving national identity, cultural autonomy..."⁶⁵ These words are also true for Karaites, who live all around the world and especially for those Karaites, along with Tatars and Krymchaks, that have to preserve their identity in Crimea, their native lands – a part of sovereign Ukraine, temporary occupied by Russia.

6. Conclusion

Karaites and their possible ancestors – Khazars – freely interpreted religious postulates, contributing to the development of both religious ideology and the development strategy of the Karaite community itself. They were forced to look critically at the reality, which, due to their geographical settlement, being at the intersection of cultures, beliefs and schools of law, with an almost constant threat of annihilation of the

⁶¹ J. Duvan, *Catechism. Fundamentals of Karaite Law. Guide to Teaching the Law of God to Karaite Youth*. Approved by the Karaite Haham. St. Petersburg, 1890. To read: <https://karaimskijkatichizis.estranky.cz/>.

⁶² Ibid.

⁶³ Kolodny A., Sagan O., *op. cit.* (2013), p. 148.

⁶⁴ Frolova, N., *From Trakai to Stockholm and Back. Timur Kobetsky on how a Karaite cannot close himself off from the world, but also cannot dissolve in it*. Delfi. To read: <https://www.delfi.lt/ru/news/live/ot-trakaya-do-stokgolma-i-obratno-timur-kobeckiy-o-tom-kak-karaimu-ne-zakrytsya-ot-mira-no-i-ne-rastvoritsya-v-nem-91894213>.

⁶⁵ Buchma, O. (2009). „Political Science of Religion: Formation and Content”. *Ukrainian Religious Studies*. Special Issue, No. 1. p. 156.

small Karaite people.

Their idea of freedom, equality and democracy was formed under the influence of progressive Jewish and Muslim scholars and so absorbed their knowledge.

There are many unresolved historical questions in the origin of the Karaite people, and many aspects of their history have already been reconstructed by historians, archaeologists and religious scholars. The arsenal of further research includes Karaite texts in Greek and Arabic. We believe that the study of these texts will make it possible in the future to find more details about the formation of the free thought of Karaites, their ability to be tolerant of other cultures and adapt to the most complex challenges of their political and legal reality.

Special legal status was granted to Karaites by the Grand Duchy of Lithuania, Rus, and Semigotia. This state's tolerance towards various religions and cultures, which had a long tradition, is tightly integrated into the modern Lithuanian legal culture. We believe that the study of these texts will make it possible in the future to find more details about the formation of the free thought of Karaites, their ability to be tolerant of other cultures and adapt to the most complex challenges of their political and legal reality. Respectful attitude towards minorities and indigenous people, protection of their identity is a pledge for harmonious life of a society as a whole. But not only the state and representatives of the state-forming people, but also representatives of minorities and indigenous peoples should strive for harmonious political and legal life. Manipulation of the right of peoples to self-determination, its incorrect interpretation, propaganda of separatism are not allowed.

Cultures mutually enrich each other and promote not only cultural, but also economic development. The historical example of the relationship between Karaites and the Lithuanian-Rus-Semigotian society is an illustrative example of how a minority, without being assimilated, becomes an active part of a state.

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