

## Maimonides' Menstrual Reform in Egypt

EVE KRAKOWSKI

IN THE SPRING of 1176, Maimonides ordered Jewish women throughout Egypt to observe rabbinic menstrual purity laws or risk major financial loss: the dowers their husbands had promised them at marriage. Surviving texts about this reform illuminate Jewish marriage practices in medieval Egypt and their effects on women from an unusual range of angles. They capture within a single story intimate aspects of women's domestic and ritual lives attested nowhere else, alongside fine-grained evidence for their more public and better-documented positions as property owners and litigants before the rabbinic courts.

Maimonides' menstrual decree is the most interventionist rabbinic reform known to us in the history of premodern Egypt. It is also among the most famous events in medieval Jewish women's history. But while the decree has long attracted scholarly attention, its motives and outcomes are worth revisiting. Maimonides has been understood either as protecting rabbinic norms from Karaite encroachment, or as responding to a mass revolt against rabbinic immersion among women in twelfth-century Egypt. Both frameworks were first suggested by Maimonides himself, but both are misleading. This essay argues instead that the decree responded to a quasi-biblical and nonrabbinic—but not markedly Karaite—menstrual purity regime that had prevailed to varying degrees among Jews throughout the medieval Middle East for centuries. After a full translation of the decree's text, I first reconstruct this biblicizing

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regime and its diffusion among Rabbanite Jews in Egypt and elsewhere. In the essay's second and third sections, I examine the novel administrative tools that Maimonides, departing from the long-established political norms of Jewish communal leadership in Egypt, deployed to end this nonrabbinic menstrual regime as well as the ways in which Jewish husbands and wives deployed these tools in turn in the decades afterward—not always as Maimonides had intended them to.

The story of Maimonides' menstrual reform brings together three systems of medieval Judaism that rarely interact within view of modern scholarship: the ideal normative rabbinic law Maimonides spent his life championing and codifying; the more limited system of rabbinic legal practices maintained by rabbinic courts in Egypt, which embodied this ideal only partially and idiosyncratically; and a now nearly invisible system of private Jewish practices—not all of them normatively rabbinic—maintained beyond the courts' domain. As such, the story of this reform provides us with an exceptional window onto Maimonides' great project of rabbinic normativization as it played out not on the pages of the *Mishneh Torah* but on the ground in Egypt in his own day—its radical political character as well as its complex social effects and social limits, especially as these affected women within the equally but differently gendered spheres of the household and the rabbinic courtroom.

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Maimonides' decree on menstrual purity survives in two closely related versions, one in his collected responsa and the other in a quire preserved in the Cairo Geniza.<sup>1</sup> The following translation follows the Geniza text but adds a closing passage absent there that is preserved in several of the responsa manuscripts.<sup>2</sup> Here and throughout the essay, I render Judeo-Arabic in regular type and Hebrew in italics when presenting a text for the first time.

*Build up, build up, clear the way! Remove a stumbling block from my people's way.*<sup>3</sup>

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1. Maimonides, *Responsa*, ed. J. Blau (Jerusalem, 2014), no. 242 (based on Simonsen MS A; Blau's notes include variants found in other extant manuscripts of Maimonides' responsa as well as in the Geniza version of the decree); T-S 10 K 15.1, edited and translated in Itzhak Shailat, *Letters and Essays of Moses Maimonides* (Hebrew; Jerusalem, 1995), 177–80.

2. See Blau, Maimonides, *Responsa*.

3. Isa 57.14.

We, the scholars living in Egypt at this time, say: When we were brought together in this region from distant lands and scattered regions, we and the native scholars we found here joined together to (act as) guardians. Then we began, separately and together, to investigate the condition of the *community*, as He enjoined: *As a shepherd seeks out his flock when he is among his sheep*.<sup>4</sup>

As we observed each of the people's circumstances—so that we might bring back whomever had turned from the right way, explain the way of truth to whomever knew it not, repair the breach for any who had erred, fortify any whose strength had weakened from enduring his burden, and bring joy to the upright in their uprightness; so that we might increase uprightness, as he, may he be exalted, said metaphorically, *I will seek out the lost one and bring back the one driven away; I will bind up the broken and strengthen the sick, and the fat and the strong I will destroy*<sup>5</sup>—we examined *our increasing sins* and found that a *great sin* had spread among *most of the community*, sparing only a few individuals.

Namely: we found that Jews throughout all of Egypt had become lax about *immersing for menstrual purity in mikveh water and counting seven clean days*, and that they practiced a heretical practice by relying on washing in *drawn water*, believing that this causes purity and makes the menstruant permitted to her husband. Worst of all, most of them rely on *complete heresy* and [a word] that God did not say,<sup>6</sup> namely that the menstruant has a woman who is not menstruating pour what they call “pure” water over her, thinking that if she were to pour the water over herself, she wouldn't be purified and permitted to her husband. This concept is what they have come to call *sakb* [pouring]. Some of them perform this *sakb* at twilight, in accordance with the belief of the *heretics*.

When we, all the *sages and scholars and great elders*, saw this *great sin*, this *wide breach*, this *chronic leprosy that had spread in the skin of religion*,<sup>7</sup> and we learned the scale of this evil, ugly practice, which constitutes *heresy and widespread, public sexual transgression*—which obliterates the word of

4. Ezek 34.12.

5. Ezek 34.16.

6. Deut 18.21.

7. From Lev 13.11: *a chronic leprosy in the skin of his flesh*. “In the skin of religion”: the Geniza manuscript appears to read בעור חדת here, but comparison with the scribe's ה and ח throughout the manuscript suggests the phrase intended is rather בעור חדת.

truth and *annuls the words of the scribes* [*divre soferim*],<sup>8</sup> which is worse than *annulling the Torah*, as they said, may peace be upon them, ‘(One who says) *there are no tefilin in order to violate the Torah is exempt (from punishment, but one who says that tefilin include) five compartments*<sup>9</sup> in order to violate the words of the scribes [*divre soferim*] is liable;<sup>10</sup> and we have found that they, peace be upon them, took complete caution against cleaving even in the smallest matter to *heretical* practices and commanded caution against anything that might lead to belief in any of their heretical innovations, or to inclining toward any of their interpretations, as the sages said, “Take care with your words, lest you be exiled to a place of bitter waters, and the students who come after you drink and die”<sup>11</sup>—we realized and recognized that if (we) were lax or indifferent about this, *all of Israel who came after us (would drink) and die*.

Therefore, having confirmed their practice and our knowledge of the scale of this sin, we were required to warn them and inform them of what we knew and to exhort them, as he, may he be exalted, said to his prophet: *Son of man, I have made you a watchman over the house of Israel. When you hear a word from my mouth you will warn them from me.*<sup>12</sup> We knew that if we weakened in warning them or failed to instruct them or languished in enjoining them to reform (their) practice and repair this breach, we would consign ourselves and them to great ruin, because the sin of *sexual transgression* cannot be borne nor pardoned nor neglected, as he, may he be exalted, guaranteed, saying, *the land will not vomit you out when you defile it, as it vomited [out the nation that preceded you].*<sup>13</sup> And we would be blamed for their sin, all [of us] liable for their blood, as he, may he be exalted, said, *If the watchman should see the sword coming and not blow the horn, and the people not be warned, and the sword come and take any of them—he will be taken for his sin, but I will seek his blood from the watchman.*<sup>14</sup>

Therefore we warned them in the *synagogues* and the *study halls* and informed them of all these goals; and that the menstruant’s status

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8. *Divre soferim*: Maimonides applied this term to rabbinic laws derived hermeneutically from the biblical text: idem, *Sefer ha-mitsvot*, *Shoresh sheni*.

9. Rather than four as required by rabbinic law.

10. mSan 11.3.

11. Cf. mAvot 1.11.

12. Ezek 33.7.

13. Lev 18.28.

14. Ezek 33.6.

remains the same before she enters the bathhouse and after she enters the bathhouse. Even if she washes herself *in all the waters of the world*, *she remains menstrually impure until she immerses in mikveh water*, necessarily. We explained to them the requirement *to count seven clean days* and forbade them the aforementioned *sakb*, informing them that it is *a great sin and heresy that causes immersion to be forgotten among Jews*, because they assume that *these [and these] purify*—as the [sages], may their memory be blessed, did regarding *a pure [man] whose head and most [of his body] come into drawn water*.<sup>15</sup> We informed them that any woman who performs *sakb*, even *in the midst of the day* and even if she *immerses in mikveh water* afterwards, *[follows] evil ways*<sup>16</sup> and is an evil woman who sins a great sin—for as long as they maintain this heresy, they degrade immersion *and revert to saying, "These and these purify."*<sup>17</sup>

After we had proclaimed this matter *in public* for years, we saw that *the plague held before him*<sup>18</sup> and only a few had turned *to good*—and that this neglect came mainly from the women, because *they held onto heresy and immersion* was hard for them. Therefore we saw fit, we the *sages and the judges and the rest of the scholars who sign below*, to make this decree and enact it:

Every *Jewish woman* who does not *immerse in mikveh water* after *counting seven clean days according to the laws of the daughters of Israel*, or who performs the aforementioned *sakb*—this woman *may be divorced without a dower [ketubah] and retains no (right) either to a dower or to any marriage contract [ketubah] stipulations*,<sup>19</sup> whenever it's confirmed that she com-

15. bShab 14a. According to this talmudic passage, the rabbis decreed such a man impure as a preventative measure, in response to men who immersed in ritually pure but filthy water and then washed for cleanliness in drawn water—a practice that might lead them to equate both as similarly purifying (“these and these purify”). This anecdote neatly justifies Maimonides’ unprecedented move in this passage to refuse women their dowers for performing *sakb* even when they had also immersed rabbinically; see below, p. 265.

16. *Tarbut ra'ah*, a rabbinic term denoting religious misconduct. On its use in Geniza documents, see Moshe Yagur, “Religious Identity and Communal Boundaries in Geniza Society (10<sup>th</sup>–13<sup>th</sup> Centuries): Proselytes, Slave, Apostates” (Hebrew; Ph.D. diss., Hebrew University, 2017), 139–40.

17. See above, n. 15.

18. Lev 13.5.

19. My translation of this passage reflects the dual use of the term *ketubah* in late ancient and medieval rabbinic literature, to denote both the marriage contract and a cash dower that the groom owes his bride (which the contract exists to record). Rabbanite women’s dowers in medieval Egypt included both a fixed, minimal dower required by rabbinic law (typically valued at 25 *dirhams* for vir-

mitted any of these three sins: if she stopped immersing, or (waited) less than *the seven clean days*, or (performed) *sabb* even with *immersion*. *Every widow who comes to claim her dower in court after the date of this decree may not take a single penny*<sup>20</sup> until she has been made to swear as an extension of her widow's oath that she *immersed for menstrual impurity* from the time of this *decree onwards*, and that from the date of this *decree she had sex only after immersing in mikveh water after counting seven clean days*, and also that she did not perform the aforementioned *sabb* in any manner after this *decree*. Whenever she acknowledges in *court* that she has not *immersed in mikveh water, or not counted seven clean days, or performed sabb* after this *decree*—she loses her *dower and all (her) dower stipulations*. Likewise anyone who divorces, the *judge*<sup>21</sup> should say to the *husband*, “Know that if she *didn't immerse in a mikveh, or didn't count seven clean days, or performed sabb*—*she has no dower*.” If the *husband* claims that she did any of these aforementioned things—namely, she didn't immerse in a *mikveh* or she didn't count seven clean days or she “poured”—but he is unable to establish this with proof, *she may likewise not collect her dower until she has sworn a binding oath on a Torah scroll*<sup>22</sup> that she *immersed for her menstrual impurity after seven clean (days)* and that she had not performed *sabb* in any manner. After that the *husband* is required to pay (her) *dower*.

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gins and 12.5 *dirhams* for nonvirgins, both economically trivial sums) and a much larger, voluntary but customary sum that varied from couple to couple (technically classed as *tosefet ketubah*, an “addition” to the minimal dower). This larger sum was itself divided into “early” and “deferred” payments—one given at marriage and the other when the husband died or divorced his wife. In practice, the decree here likely targeted mainly this latter, deferred portion of the dower, which was typically worth several times the “early” sum given at marriage. See Eve Krakowski, *Coming of Age in Medieval Egypt: Female Adolescence, Jewish Law, and Ordinary Culture* (Princeton, N.J., 2018), 243–44, and the literature cited there. “Stipulations”: Egyptian marriage contracts in this period often included personal stipulations, but Maimonides here uses *tena'e ketubah* (marriage contract stipulations) also to denote specific marital rights that rabbinic law understands as automatic outcomes of the marriage contract (a woman's husband must pay for her medical care, redeem her if she is captured, and bury her when she dies; his estate must support her after his death until she receives her dower; he must support her daughters; her sons will inherit her dowry). See Maimonides, *Mishneh Torah*, *Isbat* 12.2.

20. *A peruta*.

21. Literally, the “court” (*bet din*), often used in Geniza legal documents to denote the court's presiding judge.

22. Literally, “while holding an object,” *bi-nekitat begets*.

We resolved that this *decree* should be read *in synagogues in public* to serve as a *warning to all*, so that any (woman) who married would know that she was married only on these conditions; that she had (rights to) a *dower* only on the condition *that she not walk in the ways of the heretics and not violate the law of Moses*[*dat Moshe*];<sup>23</sup> and that she would not require a *warning each and every time*—rather, this *warning* would [apply] generally to everyone in Egypt, great and small.

We the signatories obligated ourselves to pass judgment in Egypt only according to *this decree*. We will neither change nor undermine nor suspend nor repeal it. Likewise we obligate all who come after us to judge according to this decree, to strengthen and reinforce it *and repair the fallen fence of the law of Moses* [*dat Moshe*]. They should take pity on the law of *Moses, the greatest of all prophets*, not on women's dowers.

Because we fear that an *immoral judge may arise after us, who will negate this decree or undermine it and act against its dictates, collecting a dower for a widow without this rider oath regarding immersion and counting the seven clean days and sakb, or for a divorced woman whose husband made a claim against her before he has made her swear*—we have passed a great and severe ban on any judge who should arise in all the land of Egypt and not judge according to the decree; and on any sage or scholar who should teach in contradiction to this decree. *This will be the law in all the land of Egypt until the days of the Messiah.*

*We have resolved that every judge in the land of Egypt must judge according to this decree from the month of Sivan, 1487 [= May/June 1176]<sup>24</sup> and after. It is all true.<sup>25</sup> One who breaks a fence, a serpent will bite him.<sup>26</sup> As is said, Listen, my son, to your father's instruction and do not forsake your mother's teaching.<sup>27</sup> [end Geniza manuscript]*

23. *Dat Moshe*: this rabbinic term refers specifically to women's marital obligations, including their maintenance of menstrual-sexual purity.

24. 1487: Seleucid, the calendar used most often in Geniza legal documents. Blau's edition gives the date as 1167 (4927 *Anno Mundi*) based on one manuscript of Maimonides' responsa, but this is too early in Maimonides' life to be credible. Another manuscript gives 1176, as here; another gives 1217, long after Maimonides' death.

25. A validation formula occasionally found in Geniza legal documents.

26. Eccl 10.8.

27. Prov 6.20.

Likewise, we *resolved* that any man proven to have had sex with his wife while [violating] one of these three *sins*, and knew that (this was the case) and remained silent, and did not state this in *court* until the time of *divorce*—the court should *excommunicate* this man, humiliate him, *expel him from the congregation*, and fine him, according to the *court's* capacity to deal with this man, and as the *judge* sees fit and as the times permit.

We the signatories *resolved* on this, as a *complete resolution*.

Moshe b. Maymūn  
 Shemu'el b. Se'adya *ba-levi*  
 Yitṣḥak b. Sason *ba-dayan*  
 Mevorakh b. Natan *be-ḥaver*  
 Shemu'el b. Yosef  
 El'azar b. Misha'el  
 Daniel b. Yosef  
 El'azar *ba-levi* b. Yefet  
 Yehudah *ba-kohen* b. Tuvyah  
 Avraham *be-ḥaver*

# I. WHY DIDN'T JEWS IN EGYPT FOLLOW RABBINIC MENSTRUAL PURITY LAW?

## A. *Egyptian menstrual practices between biblical and rabbinic law*

The rabbinic laws championed in this decree derive partly from the Hebrew Bible but depart from it in important respects. The Bible both prohibits sex with a menstruating woman (Lev 18.19) and describes menstruation as a contagious source of cultic impurity (according to Lev 15.19–24, a menstruant remains impure for seven days, during which time she renders temporarily impure any surfaces or objects she sleeps or sits on; any person who touches her or these surfaces becomes temporarily impure in turn and must wash his clothes and body in water). The rabbis categorically upheld half of this model: the biblical prohibition against menstrual sex. Indeed, rabbinic law goes further than the Bible in this respect, requiring a woman to abstain from sex until seven days after the end of her period (not merely seven days from its start), and then permitting her to resume relations only once she has immersed at night in ritually purifying “gathered” water (*me mikveh*, either a natural body of water or an artificial pool containing a minimum amount of natu-



rally flowing water).<sup>28</sup> But in the absence of the Temple cult, the rabbis eventually suspended Leviticus 15's prescriptions for menstrual purity in all other contexts, permitting menstruants to engage in ordinary activities without concern for their transitive power to pollute others.<sup>29</sup> The Babylonian Talmud lists the only tasks forbidden to a menstruating wife: she may not fill her husband's cup, wash his face, hands, and feet, or make his bed—all prohibitions designed to decrease the couple's physical intimacy rather than to contain the wife's impurity.<sup>30</sup> This approach was widely accepted by medieval rabbinic jurists and codified by Maimonides himself in his great legal code, the *Mishneh Torah*.<sup>31</sup>

It is clear from Maimonides' decree that most Jewish women in twelfth-century Egypt ignored the rabbinic rules surrounding menstrual-sexual purity. Instead of waiting seven "clean" days after menstruation and then immersing in *me mikveh*, women washed in the bathhouse as soon as they finished bleeding, using ordinary "drawn" water taken from a well or cistern. But this negligence was not the only, or even primary, target of Maimonides' ire. Hidden just between the lines of the decree is a further complaint: Egyptian women took this bathhouse washing seriously as part of an alternative menstrual purity regime that hewed closer to biblical than to rabbinic law.

The biblical logic of Egyptian Jews' menstrual practices emerges when the decree is read alongside other texts written by Maimonides and his contemporaries. First, the decree itself singles out for special critique a practice termed "pouring" (*sakb*): "The worst of this is [. . .] that the menstruant has a woman who is not menstruating pour what they call 'pure' water over her, thinking that if she were to pour the water over herself, she wouldn't be purified and permitted to her husband." This passage has attracted considerable scholarly attention, focused mainly on the act of pouring water. Scholars have varyingly explained *sakb* as a Karaite "sprinkling" ritual derived from the biblical ritual of *me nidab*

28. For a brief summary of these laws, see Tirzah Meacham, "An Abbreviated History of the Development of the Jewish Menstrual Laws," in *Women and Water: Menstruation in Jewish Life and Law*, ed. R. R. Wasserfell (Hanover, N.H., 1999), 23–39.

29. An extensive literature discusses rabbinic approaches to ritual purity after the destruction of the Temple. See the recent survey in Stuart Miller, *At the Intersection of Texts and Material Finds: Stepped Pools, Stone Vessels, and Ritual Purity among the Jews of Roman Galilee* (Göttingen, 2015), 17–31.

30. bKet 4b, 61a. See also mShab 1.3, tShab 1.14, bShab 13a. (According to one opinion cited in bKet. 61a, the restriction on making a husband's bed applies only when he is present.)

31. Maimonides, *Mishneh Torah*, *Issure bi'ah* 10.4, 10.19.

(water mixed with the ashes of a red cow and sprinkled over individuals to remove corpse impurity), or as an ancient Egyptian Jewish custom perhaps descended from daily ritual “sprinklings” mentioned by Philo of Alexandria in the first century.<sup>32</sup>

But pouring water over one’s body from a vessel was a normal way to wash both ritually and for cleanliness throughout the medieval Middle East, including in Fatimid and Ayyubid Fustat.<sup>33</sup> Maimonides and his contemporaries—men and women, Jews, Christians, and Muslims alike—would have washed this way whenever they visited a bathhouse. Maimonides seems to me to object especially to *sakb* not because it involved poured water but because of women’s conviction that a nonmenstruant needed to handle the water in order to keep it ritually pure. That is, *sakb* was a purity ritual meant to protect against menstrual contamination via substances (here, the vessel and water used for purification), ignoring the rabbinic principle that since the destruction of the Temple, menstrual impurity mattered only in the context of sex. This is why the decree rebukes women as “evil” and punishes them for performing *sakb* even if they also immerse afterwards: “for as long as they maintain this heresy, they degrade immersion and revert to saying, ‘These and these purify.’”<sup>34</sup> (I will address Maimonides’ further complaint that some women performed *sakb* specifically at twilight below.)

A second set of Egyptian menstrual practices mentioned elsewhere supports this reading: strict limits on menstruating women’s contact with food, clothing, and domestic textiles. A query written by Se’adya b. Berakhot, a follower of Maimonides who lived in Alexandria, describes such restrictions as widespread throughout Egypt: “The women’s custom among us, and in every place that we know of, is that a woman separates herself from the time of her period or childbirth. She doesn’t touch any

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32. Miller, *At the Intersection of Texts and Material Finds*, 301–2, Shaye J. D. Cohen, “Piety, Purity, Polemic,” in *Women and Water*, 93–95.

33. See the broad architectural survey in Magda Sibley and Iain Jackson, “The Architecture of Islamic Public Baths of North Africa and the Middle East,” *Architectural Research Quarterly* 16 (2012): 155–70, and on Cairo specifically, see Fodil Fadil and Magda Sibley, “The Historic Hammāms of Cairo: Safeguarding a Vanishing Heritage,” *Journal of Architectural Conservation* 14 (2006): 59–80; Nicholas Warner, “Taking the Plunge: The Development and Use of the Cairene Bathhouse,” in *Historians in Cairo: Essays in Honor of George Scanlon*, ed. J. Edwards (Cairo, 2002), 49–79. Note that Cairo’s unique hot plunge baths are a Mamluk development: see Fadil and Sibley, “Architecture of Islamic Public Baths,” 67.

34. bShab 14a.

kind of food, drink, vessels, clothes, or other things, until she finishes her period and purifies herself in the bathhouse or somewhere similar.”<sup>35</sup>

This isolation must have constrained women severely, requiring them to stay secluded indoors, perhaps even within a single living chamber, as long as they were menstruating. Se'adya's account elides basic questions about how the practice worked: how, for example, did poor or socially isolated girls and women, who had no one to bring them food or drink during their periods, fend for themselves under these conditions? Or was menstrual “separation”—like other forms of female seclusion attested among Jews and others in the medieval Middle East—in truth a class-based practice common only among elite and sub-elite women, despite Se'adya's claim that it was universal?<sup>36</sup> Yet if the social import of the practice remains impenetrable, its ritual meaning is clear. Like *sakb*, taboos on menstruants' movements reflect a literal understanding of biblical purity. They too assume that a menstruating woman's body contaminates the substances it touches—here, objects and surfaces in the household that might then transfer this impurity to its other inhabitants.

Maimonides connects both practices—*sakb* and menstrual isolation—as belonging to a single “heretical” purity regime in a letter to Yūsuf ibn Jābir, a correspondent in Baghdad.<sup>37</sup> The letter responds to an earlier letter from Yūsuf, now lost, reporting that Jews in Baghdad had criticized Maimonides for permitting women to circulate within the household during the seven “clean” days. In reply, Maimonides justified his own efforts to abolish menstrual isolation in Egypt (efforts not directly visible in our text of the decree, which focuses only on *sakb* and rabbinic immersion). He began by noting that menstrual isolation is rabbinically unnecessary: rabbinic law forbids menstruants from approaching their husbands too closely but does not hedge against their polluting others, since “*impurity* and *purity* differ from *forbidden* and *permitted* among the Rabbanites.” However, the practice should be approached differently depending on the broader purity regime in which it is embedded. On the one hand, if Jews in Baghdad segregated menstruating women while otherwise observing rabbinic menstrual law, this was harmless, “nothing

35. Shailat, *Letters*, 573–75 (a partial version of the Judeo-Arabic original), Maimonides, *Responsa*, no. 114 (a later Hebrew translation).

36. On female seclusion as a class marker, see Eve Krakowski, *Coming of Age*, 190–201, and the literature cited there.

37. Shailat, *Letters*, 406 (the Judeo-Arabic original); Maimonides, *Responsa*, no. 320 (a Hebrew translation).

but a duty that is not required.” On the other hand, matters in Egypt were different from this:

We have found the people of Egypt *turning to the words of heretics* and following the Karaite women [. . .] If it’s also your practice to take care that she doesn’t touch this and doesn’t hold that *and* they pour [i.e., perform *sakb*] at twilight and don’t immerse in *me mikveh*—this is complete *heresy*, not *custom*, and all vestiges of it should be eradicated and extinguished completely and the women compelled to follow talmudic law alone [. . .] *One who [prevents menstruants from performing housework] [. . .] because of the [physical] filth, or as an extra precaution to distance himself from the menstruant, may do so. But one who believes it forbidden to [consume] food and drink that a menstruant has touched and distances himself from it because of this [imagined] prohibition—he has left the fold of the Rabbanites and denied the oral Torah.*

This passage locates Egyptian menstrual isolation within a broader and explicitly nonrabbinic approach to menstrual purity (“she doesn’t touch this and doesn’t hold that *and* they pour at twilight and don’t immerse in *me mikveh*”) predicated on concern for menstrual contamination—the belief that it was “forbidden to (consume) food and drink that a menstruant has touched.” It was not menstrual isolation alone but this biblicalizing regime in its entirety that Maimonides had endeavored to eradicate in Egypt and replace with talmudic law.

### B. *The origins of Egyptian Jews’ menstrual regime*

Where did this quasi-biblical purity regime come from? At first glance, Maimonides’ answer seems clear: Egyptian women had picked up their biblical literalism from the Karaites. And it does seem plausible that Karaites in Egypt maintained menstrual practices similar or identical to these. Direct evidence for this is lacking, but the fullest Karaite discussion of menstrual purity published to date (in Ya’qūb al-Qirqisānī’s sprawling *Kitāb al-Anwār wa-al-Marāqib*, composed in tenth-century Iraq) is sufficient to make the case: it endorses as proper practice nearly all the customs Maimonides would later decry as heresies.<sup>38</sup>

38. Edited (in Arabic script) by Leon Nemoy (5 vols.; New York, 1939–43). Qirqisānī’s treatment of menstrual purity is not the only, nor even the most thorough, such text to have survived; a more detailed history of the subject remains hidden in the vast library of still-unpublished medieval Karaite manuscripts owned by the National Library of Russia. Some of this material is remarkably detailed and lengthy. The sections on ritual purity in Yefet b. Eli’s commentary on Leviticus, for example, run up to fifty folio pages per verse. Microfilms of some of these texts are now available online through the Institute of Microfilmed

These include, first, ritual purification by pouring water in the bath-house. Qirqisānī affirms that water poured over the body is just as purifying as immersion, and that the water itself may be drawn rather than naturally flowing.<sup>39</sup> (It should be noted, however, that Qirqisānī does not claim that purification may *only* be achieved by pouring; that is, he does not present “sprinkling” or pouring as a ritual act in and of itself but rather justifies this common mode of washing as equally legitimate to immersing in *me mikveh*.) Second, Qirqisānī emphasizes that biblical law requires menstruating women to wash seven days after the start of a period, not seven days from its end.<sup>40</sup> Third, he assumes that menstruating women are ritually impure and carriers of impurity, describing a menstruant’s bedding and seat as self-evidently polluting.<sup>41</sup> Finally, *Kitāb al-Anwār* helps explain why some Egyptian women took pains to wash at twilight, rather than at night; Qirqisānī cites some Karaites who interpreted Deut 23.12, which requires an impure man to wash in water *toward evening*, as indicating the period just before sunset and no later.<sup>42</sup> In fact, the only Egyptian menstrual practice that Qirqisānī does not explicitly mention is *sakb*, the pouring of water by a nonmenstruating woman. The practice is nonetheless compatible with his views on menstrual contagion, and it is entirely possible that Karaite women in Egypt a century and a half later had indeed come to wash this way—although it should be noted that unlike other Egyptian menstrual practices (negligence of the *mikveh*, the belief in menstrual contagion, and washing at twilight), Maimonides never explicitly labeled *sakb* a Karaite custom.

Yet whether or not Rabbanite women in Egypt had at some point borrowed any of these specific practices from their Karaite neighbors, there are many reasons to doubt that Egyptian Jews owed their approach to menstrual purity only, or even mainly, to Karaite influence.

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Hebrew Manuscripts of the National Library of Israel; a comprehensive catalogue of them remains a desideratum. See David Sklare, “A Guide to Collections of Karaite Manuscripts,” and on the significance and accessibility of the National Library of Russia’s Firkovitch collections more generally, Sabine Schmidtke, “Intellectual History of the Islamicate World beyond Denominational Borders.”

39. Qirqisānī, *Kitāb al-Anwār* 10:44–45; he argues that Lev 15.13’s reference to ritual washing in *living water* denotes fresh rather than salt water.

40. Qirqisānī, *Kitāb al-Anwār* 10:50:1–2.

41. Qirqisānī, *Kitāb al-Anwār* 10:50:5, echoing Lev 15.20–23.

42. Including his older contemporary Dani’el al-Qūmisī: Qirqisānī, *Kitāb al-Anwār* 10:47:2. Qirqisānī goes on in this section to agree that immersion must occur before nightfall but argues that it may also take place before twilight, as early as midday. I haven’t found this opinion among Qūmisī’s small body of published writings.

First, the menstrual regime that Maimonides encountered in Egypt was probably very old (although there is no way to know precisely how far back it reached). Its antiquity is worth stressing in and of itself, because an influential study has described Maimonides' decree as responding to a sudden "*mikveh* rebellion" among women in the late twelfth century.<sup>43</sup> But none of the evidence at our disposal suggests either that women in Egypt had practiced rabbinic immersion before this or that men beyond Maimonides' immediate circle had expected them to. To my knowledge, the only pre-Maimonidean Egyptian Geniza document that clearly mentions rabbinic immersion is a draft of a premarital contract likely written in the early twelfth century (before 1134) that notes the groom "obliged himself regarding *immersion*"—phrasing that suggests rabbinic purity practices were unusual among Egyptian Jews at the time and that they were viewed as inconvenient especially for men.<sup>44</sup> There is no clear reference to a built *mikveh* among the rich and detailed data about Jewish communal institutions in eleventh- and twelfth-century Fustat preserved in the Geniza.<sup>45</sup> While this is merely negative evidence, a query submitted to Maimonides after the decree from the city of Damanhūr in the Nile Delta suggests its author was entirely unfamiliar with rabbinic purity law: after noting that both men and women in the region neglect rabbinic immersion, he asked for a basic primer on the mechanics of the practice: "Please explain . . . how women should conduct themselves when they immerse."<sup>46</sup> Conversely, menstrual isolation—the other distinctive half of this regime—is attested in Egypt as early as the 990s (or perhaps the following decade; part of the dating clause is effaced), in a Jewish marital reconciliation contract from the Fayyūm that requires the wife to perform any housework required of her, but only "*as long as she is pure*."<sup>47</sup>

Second, Jews in Egypt during the centuries before Maimonides seem not to have understood any aspect of this regime as markedly Karaite. A small group of Geniza marriage contracts produced between 1009 and

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43. Avraham Grossman, *Pious and Rebellious*, 109–10. Ashur, "Engagement and Betrothal Documents from the Cairo Geniza" (Hebrew; Ph.D. diss.; Tel Aviv University, 2006), 126–27, questions this view on grounds similar to those presented here.

44. Mosseri VII 10,1, ed. Amir Ashur, "Engagement and Betrothal Documents", no. 5–7. See Ashur's comments there for the document's dating.

45. This is the case until at least the 1180s. See below, n. 103.

46. Maimonides, *Responsa*, no. 321.

47. PER H 82, ed. Simḥa Assaf, "Pitom ve-Damsis" (Hebrew section) in *Alexander Marx: Jubilee Volume on the Occasion of his Seventieth Birthday* (New York, 1950), 73–78.

1135 offers the best index we possess for living points of conflict between Karaite and Rabbanite domestic religious practices. These contracts ratify marriages between a Karaite and a Rabbanite spouse and thus stipulate how the couple should handle practices about which they disagreed, including whether to have sex and use fire on the Sabbath, the timing of holidays, and dietary laws.<sup>48</sup> But none so much as mention menstrual purity, suggesting that neither group viewed the subject as a site of Karaite-Rabbanite difference.<sup>49</sup>

Third and most importantly, several aspects of this menstrual regime—including its most salient feature, the non- (or pre-)classical rabbinic fear of menstrual contamination—were hardly unique to Rabbanites in Egypt but had long been shared by many Rabbanite Jews in other parts of the Islamic Middle East.

Such concern has often been understood as especially characteristic of early medieval Palestinian rabbinic law. The clearest evidence for this appears in *Sefer ha-ḥilukim*, a Hebrew text written in or (more likely) before the tenth century listing customary differences between rabbinic Jews in Palestine and Iraq—among them, that whereas Iraqi Rabbanites only prohibit menstruants the three tasks forbidden by the Talmud, “in Palestine she may not touch anything,<sup>50</sup> nor [any] utensils; but under duress, they permitted her to nurse her son.”<sup>51</sup> As Mordechai Akiva

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48. On these contracts, see Marina Rustow, *Heresy and the Politics of Community: The Jews of the Fatimid Caliphate* (Ithaca, N.Y., 2008), 239–54, Judith Olszowy-Schlanger, *Karaite Marriage Documents from the Cairo Geniza: Legal Tradition and Community Life in Mediaeval Egypt and Palestine* (Leiden, 1998), 247–56. Thirteen such contracts and two formularies for such contracts have been identified to date; none mention menstrual purity or ritual immersion.

49. See also T-S NS 163.4, a Karaite manuscript fragment preserved in the Geniza that criticizes the Talmud for permitting a menstruating wife to perform household tasks for her husband, while simultaneously taking for granted that purity is achieved by washing in heated water (that is, in the bathhouse)—apparently unaware that this too may be a point of Karaite-Rabbanite contention. Cf. BL OR 5562C.33—OR 5562C.34, another fragmentary Geniza text that likewise repeatedly describes ritual purification as occurring in the bathhouse.

50. Most published versions of this passage read “anything wet,” but the earliest versions read simply “anything.” See Elkin, “The Karaite Version of *Sefer ha-Ḥilluqim bein Bene Erez-Yisrael le-Bene Bavel*” (Hebrew), *Tarbiz* 66 (1996): 101–11, and the following note.

51. On *Sefer ha-ḥilukim*'s dating, see Elkin, “Karaite Version,” who demonstrates that the earliest extant versions of this work appear in tenth-century Karaite texts, beginning with Qirqisānī. M. A. Friedman points out to me, however, that Qirqisānī's (Judeo-Arabic) text cannot have been the original, since it seems to reflect his misreading of (or a scribal error in the manuscript of) an earlier

Friedman has noted, the Geniza provides indirect documentary support for the Palestinian part of this passage: among a small corpus of tenth- and eleventh-century Geniza marriage contracts that follow a Palestinian Rabbanite formulary, some stipulate that the wife must serve her husband “in purity and cleanness.”<sup>52</sup> (An early medieval Hebrew treatise called *Beraita de-nidab*, which emphasizes the extreme dangers posed by menstruants, has also been taken as evidence for a Palestinian Jewish focus on menstrual purity. But a recent study questions the common assumption that *Beraita de-nidab* is a Palestinian text, arguing persuasively that we have no way to know where it was written.<sup>53</sup> Still, *Beraita de-nidab* remains important for my purposes here insofar as it offers additional evidence that at least some early medieval Jews, in Palestine or elsewhere, retained a pretalmudic fear of menstrual contagion.)<sup>54</sup>

Iraqi rabbinic texts, however, undermine *Sefer ha-ḥilukim*’s corresponding claim that Iraqi Rabbanites treated menstruants more liberally.<sup>55</sup>

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Hebrew version: see Friedman, “On the Contribution of the Geniza to the Study of Halakha” (Hebrew), *Mada’e ba-Yabadut* 38 (1998): 280, n. 7.

52. M. A. Friedman, *Jewish Marriage in Palestine*, 2 vols. (New York, 1980), 1:186–87; Friedman, “Menstrual Impurity and Sectarianism in the Writings of the Geonim and of Moses and Abraham Maimonides” (Hebrew), *Maimonidean Studies* 3–4 (1990): 3–4. See also there for a *piyyut* by the Palestinian poet Yannai (ca. sixth c.) valorizing women who are scrupulous about menstrual purity.

53. Scholars have dated the *Beraita de-nidab* anywhere between the sixth and tenth centuries. Recent study: Marienberg, *La Beraita de Nidā* (Turnhout, 2012), 66–67; for a survey of earlier opinions, see 60–66. This volume includes full editions of all ten surviving manuscripts of *Beraita de-nidab*.

54. Moreover, Jews in Egypt in Maimonides’ day may have been familiar with some version of *Beraita de-nidab*; a fragment of the work that has been dated on paleographic grounds to the thirteenth or fourteenth century was found in the Geniza, and the text could plausibly have circulated in Egypt before this. See Marienberg, *La Beraita de Nidā*, 30. Maimonides himself noted that the Jews he had encountered in Palestine in his own day did not isolate women during menstruation; however, these populations included many medieval immigrants to the region (and descendants of such immigrants) who did not maintain historically “Palestinian” practices. See Shailat, *Letters*, 406; Maimonides, *Responsa*, no. 320.

55. These texts have been discussed in several previous studies but deserve greater emphasis as context for the Egyptian practices Maimonides describes. See Yedidya Dinari, “The Impurity Customs of the Menstruant Woman—Sources and Development” (Hebrew), *Tarbiz* 49 (1980): 302–24; Friedman, “Menstrual Impurity and Sectarianism”; Simcha Emmanuel, “The Seven Clean Days: A Chapter in the History of the Halakhah” (Hebrew), *Tarbiz* 76 (2006): 233–54, all discussing texts compiled by B. M. Lewin in *Otsar ha-ge’onim* (Jerusalem, 1928–43), *Ketubot*, 181–85.



These texts help explain the curious premise of Maimonides' letter to Yūsuf ibn Jābir: *Rabbanite* Jews in Baghdad had denounced him for permitting women freedom of movement during the seven clean days. These texts suggest to me, moreover, that Egyptian menstrual practices in Maimonides' day echoed Iraqi gaonic ones in several respects.

Most relevant are two responsa issued by Sherira b. Ḥananya, head of the gaonic yeshiva of Pumbedita from 968 to 1004. The first responds to a query describing a local controversy over menstrual purity: Jews in an unnamed region had historically practiced menstrual isolation, but local scholars now criticized this practice as nontalmudic.<sup>56</sup> Sherira's response validated the scholars' arguments in theory. But he also told the query's sender to leave well enough alone; the Talmud notwithstanding, the segregation of menstruants was common in Iraq even among gaonic scholars. Sherira endorsed the practice on historical grounds, stating that while the geonim had indeed once followed talmudic law in permitting routine contact with menstruants, they stopped doing so in the tenth century upon realizing that Jews were taking this as license to behave sexually with menstruants: "They made a fence around the Torah and were stringent about this. They don't expound [on talmudic menstrual law] in the assemblies [of the yeshiva][. . .] and all *ḥaverim* [men affiliated with the yeshiva] distance menstruants in their homes and don't [permit them] to do work, neither to bake nor to cook."<sup>57</sup>

This history may well be true, although it may equally well be an imagined origins story concocted to explain how the geonim had come to maintain a menstrual purity regime contrary to talmudic law.<sup>58</sup> Either

56. For the query, see T-S G 2.112, ed. Friedman, "Menstrual Impurity and Sectarianism," 8–10. Two versions of the responsum survive: *Teshuvot ge'one mizraḥ u-ma'arav*, ed. J. Mueller (Berlin, 1888), no. 44; Lewis Ginzberg, *Gaonica* (New York, 1909), 2:206. According to the query, an earlier gaonic responsum issued in response to this controversy had validated the local scholars, labeling menstrual isolation "heretical." Sherira's response does not mention this earlier ruling.

57. This explanation appears in Ginsburg, *Gaonica* 2:206. Tenth century: Sherira dates the shift "years (after the [academies]) [arrived] in Baghdad," a move that seems to have happened in the late ninth century; see Robert Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven, Conn., 1998), 36; Moshe Gil, *Jews in Islamic Countries in the Middle Ages* (Leiden, 2004), 340, 342–43.

58. Early gaonic responsa offer mixed evidence for this question. Some seem to substantiate Sherira's account, since they affirm unequivocally the Talmud's position that menstruants do not transmit impurity: see *Teshuvot R. Natronai*, ed. R. Brody (Jerusalem, 1994), no. 20; J. Mueller, ed., *Halakhot Pesukot min ba-*

way, the text demonstrates that rabbinic Jews in at least two parts of the Islamic world in the late tenth century—Iraq and the region from which the query was sent (perhaps Ifrīqiya, although this is not certain)—practiced the same form of menstrual isolation endorsed by Qirqisānī and that later prevailed in Maimonides' Egypt.

Sherira's second responsum makes a further and equally important point: a woman left this isolation once she'd stopped bleeding and washed herself—not in a *mikveh* but in ordinary “drawn” water.<sup>59</sup> Simcha Emmanuel has recently surveyed a wide range of medieval rabbinic texts that help explain this ruling.<sup>60</sup> These texts demonstrate that through the eleventh century, rabbinic jurists in both the Middle East and Europe permitted women some behaviors during the seven “clean” days that were forbidden during menstruation itself—allowing women during their “clean” days either to perform the three tasks the Talmud prohibits menstruants (this is the question addressed by European texts), or, as here and in other texts from Iraq and North Africa, to move freely about the household and perform domestic labor. Some of these works describe two separate purifications performed at each stage—either two immersions or, more often, an initial washing in regular water just after menstruation followed by immersion in *me mikveh* seven days later.<sup>61</sup> For example, Yitshak al-Fāṣī, writing in eleventh-century North Africa, said of a woman's seven clean days: “Once she has been purified of her menstrual blood and washed herself in drawn water, we no (longer) separate from her seat and bedding, and this is how people practice nowadays.”<sup>62</sup> (Note that the complaint Maimonides mentioned in his letter to Yūsuf—that he had permitted women freedom of movement during the seven

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*ge'onim* (repr. New York, 1958), no. 76. However, *Zikbron kamah ge'onim*, ed. A. Harkavy (Berlin, 1887), no. 67, suggests the same approach as Sherira.

59. *Teshuvot ha-ge'onim sha'are teshuvah*, ed. Z. Leiter (New York, 1946), no. 169 (= *Halakhot pesukot min ha-ge'onim*, no. 80): if a woman did not have access to a valid *mikveh*, she could not have sex before immersing, but “once she's washed, even if she hasn't immersed, she may serve in the house and perform all (types of) labor, and touch everything and permit everything to touch her.”

60. Emmanuel, “Seven Clean Days.”

61. Emmanuel (“Seven Clean Days”) does not highlight this distinction, but most of the texts he cites refer to an initial postmenstrual “washing” (*reḥitsuah*, some sources specify with warm water) rather than an initial immersion in *me mikveh*.

62. Yitshak al-Fāṣī, *Responso*, ed. Z. Leiter (Pittsburgh, 1954), no. 297. A longer and more intriguing version appears in *Teshuvot ha-ge'onim sha'are teshuvah*, no. 5. See also *Toratan shel Rishonim*, ed. C. Horowitz (Frankfurt, 1881), 2:26 (see Emmanuel's notes and corrections to this text, “Seven Clean Days,” 239, n. 25).

clean days—may suggest this model had come under debate in Iraq by the late twelfth century, with some Rabbanites arguing that women should remain secluded not just until they had washed but until their final immersion.)

In sum, Sherira, al-Fāṣī, and others held that women should isolate themselves within the household during menstruation, then wash at home or in the bathhouse as soon as they stopped bleeding and emerge from seclusion. This model is orthogonal in almost every way to classical rabbinic menstrual law. But it closely resembles parallel aspects of both Qir-qisānī's account of Karaite law and the menstrual practices prevailing in Maimonides' Egypt. Indeed, Maimonides' correspondent Se'adya b. Berakhot suggested explicitly that he understood menstrual seclusion to be a gaonic custom, asking whether Maimonides did not support such seclusion given a "gaonic ruling" requiring active menstruants to isolate themselves so that they will not scatter blood around the house.

What, then, was this model? Its prehistory before the tenth century is obscure (although it is worth noting a few hints that some Jews in late antiquity may have practiced forms of menstrual isolation, with the caveat that they are indirect and that their meaning is entirely uncertain. First, Zoroastrian law prescribes women's complete menstrual isolation in special menstrual huts; the Talmud self-consciously positions rabbinic law against this practice in ways that may suggest it had gained currency among some Jews in Sasanian Babylonia. Second, Islamic *ḥadīth* conversely reports precisely the same practice among Jews in pre-Islamic Arabia<sup>63</sup>). Whenever it developed, however, the wide reach of this model among Jews in the medieval Middle East, across time, space, and juridical literatures, suggests it likely made its way from living practice into normative discourse rather than vice versa. The jurists through whose testimony we glimpse this menstrual regime—Karaite and Rabbanite,

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63. Zoroastrian law and the Talmud: see Shai Secunda, "Talmudic Text and Iranian Contexts: On the Development of Two Talmudic Narratives," *AJS Review* 33 (2009): 64–67. *Ḥadīth*: see Marion Katz, *Body of Text: The Emergence of the Sunni Law of Ritual Purity* (Albany, 2002), 10–11; Haggai Mazuz, "Menstruation and Differentiation: How Muslims Differentiated Themselves from Jews Regarding the Laws of Menstruation," *Der Islam* 87 (2012): 204–23. I'm grateful to Joseph Witztum for pointing me toward Mazuz's work on this question. Maimonides himself described menstrual isolation as a "Sabian" practice in *Guide for the Perplexed* 3:47. Note also a passage in the Palestinian Talmud that describes an ancient custom maintained by the "early elders" (*zekenim ba-rishonim*), requiring women not to beautify themselves with cosmetics while menstruating, until they had immersed (literally, "entered water"): yGit. 9.8. I am grateful to Mordechai Akiva Friedman for alerting me to this text.

Iraqi and Palestinian alike, including Qirqisānī, Sherira, the anonymous author of *Sefer ha-ḥilukim*, and others—justified it in different ways. But nonelite Jews of all these stripes likely understood it similarly, as a familiar element of domestic religious life—an element of practical or “common Judaism” (to adapt a term used in a slightly different sense by historians of Jewish late antiquity)<sup>64</sup> taken for granted by Karaites and Rabbanites alike as how things had been done in living memory.

Among rabbinic Jews, Egyptian Rabbanites stand out within this history only because they understood women’s postmenstrual bathhouse washing as purifying even for sex and thus ignored rabbinic immersion entirely—an omission that Rabbanite jurists like Sherira and al-Fāst would never have endorsed. Yet as a matter of common *practice*, even this apparent difference may be no more than an artifact of our evidence. Shaye Cohen has noted that two medieval jurists roughly contemporary with Maimonides—Avraham b. Natan ha-Yarḥi of Lunel and Yishayahu b. Mali di-Trani—describe large populations of otherwise devoted rabbinic Jews in Spain and the Byzantine empire who likewise skipped the *mikveh* in favor of bathhouse washing right after menstruation.<sup>65</sup> Jews in regions of the Islamic world beyond Egypt may plausibly have done the same without leaving visible historical traces, having no Maimonides to chastise them.

## II. “TAKE PITY ON THE LAW, NOT ON WOMEN’S DOWERS”: MAIMONIDES’ DECREE AS LEGISLATION

### A. *Maimonides as communal leader in Egypt*

Why and how did Maimonides intervene to abolish this complex of practices in Egypt? The decree on menstruation reflects the same political commitment to talmudic norms as Maimonides’ *Mishneh Torah*, a text that enjoins present-day Jewish communal leaders to enforce talmudic law:

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64. The term was coined by E. P. Sanders, *Judaism: Practice and Belief*, 63 BCE–66 CE (London, 1992), to denote a common kernel of Jewish practice and belief shared across sectarian boundaries in the Second Temple era. The menstrual practices I’ve highlighted here did not constitute the “common kernel” of medieval Near Eastern Judaism, but they do seem to have been shared widely, likewise across sectarian boundaries, independent of their normative status in prescriptive legal tradition. I prefer “common” to “popular Judaism” because these practices were accepted and maintained equally by elites as well as non-elites.

65. Cohen, “Piety, Purity, Polemic,” 87–91, citing *Sefer ha-manhig*, ed. Raphael, 2:548–49 (trans. Cohen, 87), and Yishayahu di-Trani, *Responsa*, ed. A. Wertheimer, no. 62 (in Cohen, 89).

"They must compel every city and every region to maintain all the customs maintained by the sages of the Talmud, to enact their enactments and to follow their decrees."<sup>66</sup> The decree on menstruation brings this ideal to life. It not only invokes the same brand of talmudic leadership—insisting that if its signatories had not worked to impose rabbinic menstrual law in Egypt, "we would be blamed for their sin, all (of us) liable for their blood"—but as a document embodies Maimonides' imperative to "(re-)enact (the Talmud's) enactments," marshaling prescriptive rabbinic models to pragmatic ends.

The decree recapitulated talmudic norms in real time via both its substance and its form. Its substantive effect was to strip wives who had violated rabbinic menstrual law of their right to a dower (the *ketubah*, a variable payment fixed at marriage that a woman's husband owed her if he divorced or predeceased her): "Every Jewish woman who does not immerse in *mikveh* water after counting seven clean days [. . .] or performs the aforementioned *sakb*—this woman may be divorced without a dower."<sup>67</sup> Jewish courts in Egypt had never before considered women's menstrual practices when administering their dower payments. Yet this was nonetheless straightforward rabbinic law: according to classical rabbinic texts and the *Mishneh Torah* alike, a wife who has sex while menstrually impure violates a special category of wifely duties termed *dat Mo'abe* on which her right to a dower depends.<sup>68</sup> Maimonides did, however, go beyond normative law in also denying women their dowers merely for performing *sakb*, even if they'd also immersed—an innovation that the decree thus takes pains to justify by analogy to a rabbinic proof-text: "We [. . .] forbade them [. . .] *sakb*, informing them that it is a great sin and heresy that causes immersion to be forgotten among Jews, because they assume that these (and these) purify—as the (sages), may their memory be blessed, did regarding a pure (man) whose head and most (of his body) come into drawn water."<sup>69</sup>

Likewise, the decree's formal purpose was not just to reiterate this law but to warn women throughout Egypt about it—fulfilling the rabbinic

66. Maimonides, *Mishneh Torah*, Introduction.

67. The decree also strips women of their "marriage contract stipulations," on which see above, n. 19. In practice this punishment likely mattered less than the loss of the dower: personal stipulations included in individual women's contracts depended on their dower rights in any case (see below, at n. 96) and so would have been automatically voided by the decree, while the rabbinic cluster of automatic *tena'e ketubah* was rarely invoked in Egyptian courts in this period.

68. mKet 7.6; Maimonides, *Mishneh Torah*, *Isbat* 24:10–24:11.

69. bShab 14a.

requirement that a criminal must receive warning (*batra'ab*) before he commits his crime for a court to later punish him: “this *decree* should be read in *synagogues in public* to serve as a *warning to all* [. . .] she (will) not require a *warning each and every time*—rather, this *warning* will be universal for everyone in Egypt, great and small.”<sup>70</sup>

It may seem banal to note that Maimonides, perhaps history’s greatest champion of normative rabbinic law, ruled by talmudic fiat. But this aspect of the decree is in fact remarkable, a radical departure from the region’s previous Jewish communal politics.

This departure and its implications are best understood by viewing the decree in context of a broader series of unprecedented efforts Maimonides made to reshape Egyptian Jews’ legal and ritual practices. He arrived in Egypt around 1166,<sup>71</sup> in the final years of Fatimid rule, and lived there until his death in 1204. During these decades he served as physician to the Ayyubid court in Cairo, composed his greatest legal and theological works—a full commentary on the Mishnah, the *Mishneh Torah*, and his philosophical masterpiece *Dalalat al-ḥā’irīn* (*Guide for the Perplexed*)—and issued hundreds of *fatwas* ruling on property and marriage disputes among Jews throughout the region.<sup>72</sup> Scattered evidence

70. Cf. Maimonides *Responsa*, ed. Blau, no. 321: “. . . Don’t think that this matter [i.e., women’s losing their dower rights for violating rabbinic menstrual law] is a consequence of our decree [. . .] Rather, the decree was intended to publicize this and thus serve as a warning [*batra'ab*] to women.”

71. On evidence for the exact date, see Herbert Davidson, *Moses Maimonides: The Man and His Works* (Oxford, 2005), 28–32.

72. An immense volume of scholarship examines Maimonides’ life and works. The two most recent large-scale biographies are Davidson, *Moses Maimonides*, and Joel Kraemer, *Maimonides: The Life and World of One of Civilization’s Greatest Minds* (New York, 2008). Both studies—and the many earlier studies they cite—survey closely the evidence for Maimonides’ communal leadership. Surprisingly little of this work, however, has considered Maimonides’ political activity in context of the long history of Jewish communal politics in Egypt, itself known to us in great detail from the Geniza. The most helpful and thorough treatment of this subject to date appears in M. A. Friedman, “Maimonides, Zūṭa and the Muqaddams: A Story of Three Bans” (Hebrew), *Zion* 70 (2005): 473–527. See also Menaḥem Ben-Sasson’s groundbreaking evaluation of Maimonides and “Zuta,” in “Maimonides in Egypt: The First Stage,” in *Maimonidean Studies*, vol. 2, ed. A. Hyman (New York, 1991), 3–30, as well as S. D. Goitein, “Maimonides as Chief Justice: The Newly Edited Arabic Originals of Maimonides’ Responsa,” *JQR* 49.3 (1959): 191–204; Goitein, “A New Autograph by Maimonides and a Letter to Him from his sister Miriam” (Hebrew), *Tarbiz* 32 (1963): 184–94; Goitein, “A Letter to Maimonides and New Sources Regarding the Negidim of this Family” (Hebrew), *Tarbiz* 34 (1965): 232–56; Goitein, “Moses Maimonides, Man of Action,” in *Homma à Georges Vajda*, ed. G. Nahon and C. Touati (Louvain, 1980), 155–67;

suggests he also introduced at least six major communal reforms: besides the decree on menstruation, he forbade Jews to sue each other in Islamic *qāḍī* courts; forbade them from renting real estate to Muslims or Christians; changed the structure of Rabbanite synagogue services in Fustat; forbade immigrants and travelers to Egypt to marry local women without proof that they had no other wives; and, if such foreigners did marry, forbade them to leave Egypt without first writing their local wives a conditional bill of divorce.<sup>73</sup>

Maimonides gained international fame as a scholar and jurist during this period, read and revered by Jews from Baghdad to Montpellier. Yet within Egypt itself, his authority to pass these sweeping reforms is hardly obvious. Since the 1060s, the *ra'īs al-Yabūd* (Head of the Jews), a Jewish official based in Fustat and Cairo and recognized by the Fatimid state, had formally controlled Jewish institutions throughout the Fatimid empire. In reality the *ru'asā'* (pl. of *ra'īs*) seem not always to have closely supervised even the Jewish courts or synagogues of Fustat, let alone those elsewhere in Egypt and Syria; still, they appointed the men who ran these institutions, received their stated fealty in return, and could

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M. A. Friedman, "R. Moses ben Maimon in Legal Documents from the Genizah" (Hebrew), *Shenaton ha-Mishpat ha-Ivri* 14–15 (1988): 177–88; Friedman, "Maimonides Rayyis al-Yahud in Egypt" (Hebrew), in *By the Well: Studies in Jewish Philosophy and Halakbic Thought Presented to Gerald J. Blidstein*, ed. U. Ehrlich (Hebrew; Beer Sheva, 2008), 413–35; Friedman, "Maimonides Appoints R. Anatoly Muqaddam of Alexandria" (Hebrew), *Tarbiz* 83 (2015): 135–61.

73. The first two of these decrees (against Jews' using *qāḍī* courts and renting real estate to non-Jews) resembled the decree on menstruation in reiterating normative rabbinic law as Maimonides understood it; the others (his changes to the synagogue service and decrees on immigrant marriages and divorces) were legal innovations—although see Mark Cohen, *Maimonides and the Merchants* (Philadelphia, 2017), 21–24, for hints that Maimonides' synagogue reforms themselves influenced his normative legal approach in the *Mishneh Torah*. *Qāḍī* courts: mentioned in Maimonides, *Responsa*, nos. 27, 347, 408; for the normative legal context, see Mark Cohen, *Maimonides and the Merchants*, 135–38. Real estate: mentioned in Maimonides, *Responsa*, nos. 21, 44, 92, 170, 420; for the normative context see Blau's notes to Maimonides, *Responsa*, no. 7 (1:10). Synagogue services: Maimonides abolished the silent recitation of the *'Amidah* (see idem, *Responsa*, no. 256, and see further Shailat, *Letters*, 579–602) and according to his son Avraham, attempted unsuccessfully to abolish the triennial cycle of Torah readings and other distinctive aspects of the liturgy maintained by the Palestinian synagogue of Fustat; see the translation and interpretation of Avraham's reference to this in his *Kifāya* in M. A. Friedman, "Abraham Maimuni's Prayer Reforms: Continuation or Revision of this Father's Teachings?," in *Traditions of Maimonideanism*, ed. C. Fraenkel (Leiden, 2009), 146–47. Marriages and divorces of local women: reported in Maimonides, *Responsa*, no. 347.

overrule their actions when they chose.<sup>74</sup> Maimonides twice served briefly as *ra'w al-Yabūd*, first at the start of Ayyubid rule in 1171–72 and again likely from 1195 until sometime before his death in 1204. But for most of his life in Egypt, the office was occupied by his political opponent Sar Shalom ha-Levi b. Netan'el. Some of the evidence for both men's tenures is murky, and scholars since Jacob Mann have struggled to understand precisely when their respective terms in office began and ended.<sup>75</sup> But attention to this question has obscured what seems to me a bigger problem: Maimonides published some, perhaps all, of his ambitious communal reforms squarely *during* Sar Shalom's tenure as *ra'w*, apparently without asking or involving him.<sup>76</sup>

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74. Cohen, *Jewish Self-Government in Medieval Egypt* (Princeton, N.J., 1980), 232–48; S. D. Goitein, "The Title and Office of Nagid: A Re-Examination," *JQR* 53.2 (1962): 106–12; Goitein, *A Mediterranean Society: The Jewish Communities of the Arab World as Portrayed in the Documents of the Cairo Geniza*, 6 vols. (Berkeley, Calif., 1967–83), 2:33–40.

75. The dates for Maimonides' first tenure as *ra'w* derive from dated Geniza legal documents that include *rasbut* clauses indicating they were produced under his authority (for evidence about his second term, see M. A. Friedman, "Maimonides Appoints R. Anatoly," 135–61). The clauses use Maimonides' preferred title *ba-rav ba-gadol* (on which see below) rather than naming him *ra'w*; for this and other reasons, Jacob Levinger and Herbert Davidson have questioned whether Maimonides ever served as *ra'w* at all (Levinger, "Was Maimonides 'Rais al-Yahud' in Egypt?," in *Studies in Maimonides*, ed. I. Twersky [Cambridge, Mass., 1990], 83–93; Davidson, "Maimonides' Putative Position as Official Head of the Egyptian Jewish Community," in *Ḥazon Nahum: Studies in Jewish Law, Thought and History Presented to Dr. Norman Lamm*, ed. Y. Elman and J. S. Gurock [New York, 1997], 115–28; Davidson, *Moses Maimonides*, 54–64). But this argument is difficult to accept, as the *rasbut* clause had been a stable prerogative of the *ru'asa'* since the mid-eleventh century and seems to have remained so throughout Maimonides' lifetime—including during the years between these two stints, when it was used consistently for Sar Shalom and never for Maimonides. A further problem is that documents during this period nonetheless do not always include a *rasbut* clause naming Sar Shalom; some lack the clause altogether (even before the 1187 *takanah* of Alexandria, supported by Maimonides, rejecting public declarations of fealty to *ra'w*, on which see below). Despite these difficulties, on balance the evidence does suggest that Maimonides served briefly as *ra'w* during these periods, and even more strongly that Sar Shalom held the office for the decades in between. For a careful and detailed survey of the evidence that reaches this conclusion, with full references to previous scholarship, see Friedman, "Maimonides, Zūṭa and the Muqaddams"; Friedman, "Maimonides Rayyis al-Yahud," addresses directly Levinger's and Davidson's arguments.

76. This is the case for the decree on menstruation, published in 1176, as well as for Maimonides' ban on Jews' appeal to *qāḍī* courts, dated 1187. 1187 is also the date preserved for Maimonides' ban in support of specific Jewish judges



Far from routine legislative acts, Maimonides' bans and enactments reflect his successful attempt to supplant the hierarchy that had ordered Jewish communal life in Egypt for more than a century. This is the real "*mikveh* rebellion" described in the decree on menstruation: Maimonides' own concerted rejection and usurpation of the *ra'w al-Yahūd*'s long-established leadership. Perhaps dazzled by the light of history, in which Maimonides' authority appears self-evident, scholars have paid surprisingly little attention to this coup. To my knowledge, none of the many studies examining Maimonides' life has considered how he managed it. I will not attempt to fill completely this major historiographical lacuna here. Part of the answer must lie with the nascent Ayyubid state, which may have taken the office of *ra'w al-Yahūd* less seriously than had the Fatimids—as Maimonides himself suggests in a letter to one of his judicial protégés—and who conversely seem to have cared more about ensuring the normative authenticity of Jewish legal practices under their rule.<sup>77</sup> But Maimonides' surviving responsa fill in a different piece of the puzzle, from the perspective of his audience: the Jews he strove to lead.

This evidence points the same way as the decree on menstruation: Maimonides undermined the *ra'w al-Yahūd* by marshaling normative rabbinic

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throughout the Nile Delta, discussed below. Friedman ("Maimonides, Zūṭa and the Muqaddams," 496–97) suggests that Sar Shalom may not have been *ra'w* at this time, because a legal document composed in Cairo in 1187 does not include a *rasbut* clause naming him (to be clear, it includes no *rasbut* clause at all: T-S 18 J 1.28). But we cannot, in my view, be certain that this omission reflects a break in Sar Shalom's tenure—especially since this is not the only document from the 1180s that lacks the clause (see the previous note), and given that documents dated shortly before (e.g., T-S 18 J 1.27) and shortly after (Bodl. MS Heb. a. 2/9) 1187 do name him in a *rasbut* clause. In any case, there is no evidence at all that *Maimonides* was *ra'w* at this time. Surviving references to Maimonides' other reforms do not indicate when they were enacted, but there is no reason to assume that all or even most of them date solely to his short tenures as *ra'w*.

77. Protégé: Writing to Pinḥas b. Meshulam, Maimonides noted caustically that the communal leader "Abū Zikrī" (almost certainly meaning Sar Shalom; see Friedman, "Maimonides, Zūṭa and the Muqaddams") had "taken power basely," had no supporters among the communal elite, and had also failed to obtain a real investiture from the Ayyubid state (as had the *ru'awā'* under the Fatimids); rather, "they gave him authority [*rasbut*] only thus: "if the Jews want him, they want him." Shailat, *Letters*, 450. Normative authenticity: this trend intensified further under the Mamluks. See Mark Cohen, "Jews in the Mamlūk Environment: The Crisis of 1442 (A Geniza Study)," *Bulletin of the School of Oriental and African Studies* 47 (1984): 425–48; Marina Rustow, "At the Limits of Communal Autonomy: Jewish Bids for Intervention from the Mamluk State," *Mamlūk Studies Review* 13 (2009): 133–59; Tamer el-Leithy, "Coptic Culture and Conversion in Medieval Cairo, 1293–1524 A.D." (Ph.D. diss., Princeton University, 2005), 435–39.

models to new political ends. During Sar Shalom's years as *ra'ū*, Maimonides' correspondents addressed him by a different title: *ba-rav ba-gadol* (the great master). Before Maimonides this had been an honorific rather than a political title,<sup>78</sup> used occasionally in Egypt and more commonly in Andalusia and North Africa to designate certain rabbinic scholars as respected *muftīs*—jurists who issued responsa (*fatwas*) seen as normatively authoritative.<sup>79</sup> As applied to Maimonides, the term seems to have retained the association with *fatwas* while acquiring concrete administrative meaning.

Jewish jurists in Egypt had issued responsa long before Maimonides, answering queries sent by individual litigants and local judges about marriage and property disputes as well as scholastic and ritual uncertainties. Their pragmatic purpose remains unclear, but they seem mainly to have served as a sort of expert brief that litigants could marshal to support their case. Many of Maimonides' surviving responsa might plausibly fit this model, but a subset is framed differently: as direct instruments of a sitting court, countersigned by two or more judges in Fustat (most often, Shemu'el b. Se'adya and Yitshak b. Sason, the first two signatories of the decree on menstruation).<sup>80</sup> In the only known text to discuss this

78. On this distinction, see Rustow, *Heresy and the Politics of Community*, 76–86.

79. On this usage of the term *rav*, see, e.g., Goitein, *Mediterranean Society*, 2:211. A survey of the term *ba-rav ba-gadol* and variants within the Princeton Geniza Project's corpus of Geniza documents (<https://geniza.princeton.edu/newpgp/>) and the Bar Ilan Project's corpus of medieval rabbinic texts suggests this term was used mainly by Jewish *muftīs* in and from Andalusia and the Maghrib, e.g., Yitshak b. Shemu'el ha-Sefaradi (e.g., T-S Ar. 18.2.4, ed. Moshe Gil, *Palestine during the First Muslim Period (634–1099)*, 3 vols. (Hebrew; Tel Aviv, 1983), no. 617; Yosef ibn Migas (e.g., T-S 13 J 21.12, ed. S. D. Goitein and M. A. Friedman, *India Book*, 4 vols. [Hebrew; Jerusalem, 2009–], 4:739–40); and Nahray b. Nissim (e.g., ENA 2805.2A, ed. Moshe Gil, *In the Kingdom of Ishmael*, 4 vols. [Hebrew; Tel Aviv, 1997], no. 790.)

80. Maimonides, *Responsa*, nos. 11, 92, 99, 102, 103, 173, 192, 195, 232, 260, 321, 351, 373, 380, 403, 408, 409, 431, and 452. These judges are often termed “Maimonides' court,” but this is misleading: there is no evidence that Maimonides ever presided as sitting judge in a *bet din*. He is never, to my knowledge, labeled a *dayan* (as noted by M. A. Friedman, “Did Maimonides Teach Medicine? Sources and Assumptions,” in *Maimónides y su época, Edición de la Sociedad estatal de Conmemoraciones Culturales* [2007]: 365–80), and he very rarely appears directly in Geniza legal documents (as opposed to responsa). The only exceptions known to me are a power of attorney bearing Maimonides' handwritten validation (see Friedman, “Maimonides in Legal Documents”) and an undated agreement that communal funds will be used to pay a man's poll tax, which locates itself in “the *majlis* of *rabbenu Moshe, ba-rav ba-gadol*.” But while the term *majlis* can (among other meanings) denote a court session, this agreement

practice, Maimonides describes it as an appeal to enforcement pitched at the Ayyubid state: "They wrote to me from Alexandria, saying: if you write alone, the judge might say to the inspectors<sup>81</sup> or to the (Islamic) judge, 'So-and-so says thus and (Maimonides) says thus' and they wouldn't decide in our favor. But if there are many signatories, he'll find himself alone among many."<sup>82</sup> That is, these judicial signatures underlined the normative legitimacy of Maimonides' *fatwas* to Ayyubid officials and consequently compelled courts outside Fustat to implement them.<sup>83</sup>

*Takanot*—communal decrees often issued, like the decree on menstruation, by a group of ten men—likewise had a long history in Egypt. A handful of such texts appointing communal officials survive from the early eleventh century.<sup>84</sup> But the practice seems to have fallen out of vogue thereafter, with the rise of the *ru'asā'* and the more routinized hierarchy they controlled. Maimonides revived the practice in direct challenge to the *ra'w* Sar Shalom. During his years in Egypt he passed or endorsed and encouraged via *responsa* at least ten such enactments—the six decrees about communal practices mentioned above, and four others concerning communal appointments. These included a ban aimed at compelling Jews in the Nile Delta towns of Damanhūr, Bilbays, and al-Maḥalla to marry or divorce only under the oversight of specific judges supported by Maimonides,<sup>85</sup> a separate decree (enacted by men in al-Maḥalla and endorsed by Maimonides via a countersigned *responsum*) supporting the same judge in al-Maḥalla and rejecting a different judge

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addresses the disbursement of communal funds rather than the outcome of a lawsuit, and Maimonides seems here to be functioning as an administrator rather than a judge (DK 237.1, ed. Moshe Gil, *Documents of the Jewish Pious Foundations from the Cairo Geniza* [Leiden, 1976], no. 77). Note that the heading to the query in Maimonides, *Responsa*, no. 393, stating it was sent to "Maimonides' *bet din*," is a later addition.

81. *Pakaḥim*, perhaps meaning the *muḥtasib*, a state official taxed with preserving public order; see Kristen Stilt, *Islamic Law in Action: Authority, Discretion and Everyday Experiences in Mamluk Egypt* (Oxford, 2011).

82. Shailat, *Letters*, 447–48.

83. The Geniza offers other evidence that the Ayyubids were receptive to Jews' claims to represent normative Jewish custom. See Krakowski, *Coming of Age*, 82, n. 40 and the literature cited there.

84. These date to the 1020s and 1030s and mainly involve Efrayim b. Shemarya, head of the Palestinian Rabbanite congregation of Fustat in the first half of the eleventh century: T-S 20.104, T-S 13 J 7.25, T-S 13 J 30.5, and PER H 160 (ed. Gil, *Palestine*, nos. 319, 324, 325, 331); CUL Or. 1080 J 6.

85. Maimonides, *Responsa*, no. 348. This ban is also mentioned in Avraham Maimonides, *Responsa*, ed. A. Freimann and S. D. Goitein (Jerusalem, 1937), no. 106.

appointed by the *ra'w*,<sup>86</sup> and a similar enactment (likewise passed locally and endorsed by Maimonides via a *fatwa*) barring a particular ritual slaughterer in Alexandria from public office.<sup>87</sup> Most spectacularly, in 1187 he endorsed categorically an enactment sent to him by Jews in Alexandria banning any man who proclaimed the *ra'w al-Yabūd*'s authority (*rasbut*) either during public prayers or within the text of a legal document—the two symbolic pillars that had sustained the *ra'w al-Yabūd*'s leadership since the middle of the eleventh century.<sup>88</sup>

In short, Maimonides constructed an alternative authority to the *ra'w al-Yabūd* in part by deploying the long-established Jewish institutions of responsa and communal decrees as administrative instruments to bypass the *ra'w* and directly control practices and appointments in Jewish courts throughout Egypt. This history matters to me here because Maimonides' methods and aims went hand in hand. As *ba-rav ba-gadol* he not only delegitimized the *ra'w* but asserted authority to different ends from him. All available evidence suggests that the *ru'asa'* and their subordinates had typically paid scant attention to Jews' personal practices, especially outside the context of a lawsuit; throughout the centuries documented by the Geniza, rabbinic courts in Egypt adhered strictly to rabbinic norms in court but rarely sought to direct either men's or women's behavior beyond it.<sup>89</sup> Maimonides' efforts to "compel every city and every region to maintain all the customs maintained by the sages of the Talmud" reflected an unparalleled use of the Jewish communal system he had commandeered.

#### B. Purity law in the rabbinic courts

The decree on menstruation stands out among these efforts for the unusual volume of surviving evidence about it, testimony to its outsized and long-lasting effect on Jewish life in Egypt. Viewed down the length of this paper trail, it seems a remarkably effective top-down normative reform, through which Maimonides managed to remold everyday Jewish practices to suit his ideals to a degree unmatched—and as far as we know, never attempted—by any other communal leader in Islamic Egypt. Yet on closer view this was a more peculiar and limited legislative triumph

86. Maimonides, *Responsa*, no. 27, reprinted with corrections and additions in Blau's final volume of the *Responsa*, 4:8–9.

87. Maimonides, *Responsa*, no. 173.

88. Maimonides, *Responsa*, no. 329.

89. I make this argument preliminarily in Krakowski, *Coming of Age*, especially chapters 2 and 7, and am currently working on an essay that addresses this phenomenon specifically with respect to violations of rabbinic laws surrounding sex.

than it first appears, constrained from the outset by the Jewish courts on which Maimonides relied to implement his reform.

These courts loom as large in the decree as the normative rabbinic ideas that I highlighted above, beginning with its first words: "We, the scholars living in Egypt at this time." Whose voice is this? Although Maimonides was indisputably the decree's driving force and likely its author,<sup>90</sup> it presents itself as a group action by the rabbinic scholarly class of Egypt, in particular immigrant scholars who had come there "from distant lands" and discovered with horror the local women's corrupt menstrual practices. In truth Egypt was, as we have seen, less unique in this respect than Maimonides might have liked; but this preamble packed rhetorical punch by casting its menstrual regime as uniquely illegitimate among Jews worldwide. The emphasis on foreign scholars may also suggest that the decree is best viewed as part of a broader transregional revival of classical rabbinic purity law in this period, visible in contemporary European and Byzantine texts that likewise censure local Jewish menstrual regimes for departing from the rabbinic standard.<sup>91</sup> European and Byzantine Jews may well have imported this nascent focus to Egypt and helped impel Maimonides' reform. Yet as far as we know, such immigrants were not among the nine men who joined him in signing the decree. Instead these signatories shared a local significance: many were sitting judges in Egyptian Jewish courts.<sup>92</sup> It was as court judges that these men formally enacted the decree, pledged to "pass judgment within

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90. The queries and responsa about the decree cited throughout this essay consistently represent it as Maimonides' action, and this is likewise how it was remembered by Egypt's Jews in the decades and centuries after his death.

91. These are surveyed by Emmanuel, "Seven Clean Days." Neta Bodner has recently traced archaeological evidence for a simultaneous explosion of monumental communal *mikva'ot* throughout Europe during this period. Neta Bodner and Ariella Lehmann, "So That a Person Sees Himself as If He Was Created That Very Same Hour: On the Ritual Immersion of Men, Utensils, and the General Public in Medieval German Mikvehs" (Hebrew), *Chidushim* 21 (2019): 47–83. In a letter to Pinḥas b. Meshullam (ed. Shailat, *Letters*, 436–38) Maimonides discusses a communal conflict between European immigrants and native Egyptians over a different aspect of ritual purity (men's washing after ejaculation before prayer).

92. Including Shemu'el b. Se'adya and Yitṣḥak b. Sason (on both of these men see above, n. 80), Mevorakh b. Natan (a scribe and judge who appears in many Geniza documents from 1150–81; see Goitein, *A Mediterranean Society* 2:514), Yehudah *ba-kohen* b. Tuvyah (named as judge in Bilbays in Maimonides, *Responsa*, no. 348; see further Friedman, "Maimonides, Zūṭa and the Muqaddams," 506, 509, and 518), and Shemu'el b. Yosef (ibn Yijū; for this identification and the evidence for his judicial activity, see Goitein and Friedman, *India Book*, 3:394–95).

Egypt only according to” its sanctions, and preemptively excommunicated any future judge who should fail to do the same, “until the days of the Messiah.”

This judicial context explains a feature of Maimonides’ reform that has puzzled scholars.<sup>93</sup> Why did it target only women for punishment? True, the sanction Maimonides imposed on wives—they would lose their dower rights if proven to have had sex while menstrually impure—echoed normative rabbinic law. But normative law also required that husbands who knowingly had sex with an impure wife be lashed, a counterpart punishment conspicuously absent from the decree.<sup>94</sup> In its stead a curiously placed postscript allowed judges to decide whether and how to punish such husbands, using only the relatively milder means of fines and excommunication: “the court should excommunicate this man, humiliate him, expel him from the congregation, and fine him—according to the court’s capacity to deal with this man, and as the judge sees fit and as the times permit.”<sup>95</sup>

The imbalance is easily understood, however, as a product of the reform’s administrative home in the Jewish courts of Egypt. The wife’s dower had long held center stage in marriage and divorce negotiations before these courts. For over a half-century before Maimonides arrived in Egypt, Jewish Egyptian marriage contracts had routinely included stipulations that used the dower payment to define both spouses’ rights and obligations within marriage (e.g., the wife’s freedom of movement and labor rights; the husband’s right to travel or to marry a second wife). A wife who violated her contract stipulations forfeited her dower; a husband who violated his was required, at least in theory, to divorce his wife and pay her dower even if he did not want to. I have argued elsewhere that court officials had first encouraged these dower-based stipulations to expand the reach of the Jewish courts, while litigants used them to strengthen their own, or their female relatives’, position within marriage; and that the practice reflects the courts’ institutional strengths and weaknesses—strengths and weaknesses that produced a legal environ-

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93. See, e.g., the astute summary of this problem in Cohen, “Purity, Piety, Polemic,” 93.

94. bKet 72a, bKid 80a, codified as law by Maimonides, *Mishneh Torah*, *Issure Bi’ab*, 1:22.

95. This section of the decree appears in only some extant manuscripts (see above, n. 1). It may nonetheless be authentic, as it includes the decree’s signatories—many of them known from texts contemporary to Maimonides—and moreover echoes Maimonides’ instructions in subsequent responsa, e.g. Maimonides, *Responsa*, nos. 12, 189, 369, 370.

ment in which women often stood at a disadvantage, no matter what their rights on paper.<sup>96</sup>

Maimonides' use of the dower as an enforcement mechanism reflects the same institutional strengths and weaknesses. The judges who signed the decree could not actually lash husbands for engaging in menstrually impure sex: violent coercion was a monopoly of the Ayyubid state. In theory they could fine or excommunicate such men, but even these soft penalties were not fully enforceable. A man who wished to evade them might simply refuse to pay, or ignore the ban imposed on him, or flee to another region beyond its reach; hence the decree's qualification that either punishment should be applied only "according to the court's capacity to deal with this man [. . .] and as the times permit." In contrast, the consequences the decree imposed on women were squarely within the courts' reach. Jewish court officials could easily deny a woman her dower, since few men were eager to make this payment and the courts' challenge fell rather in trying to extract it from husbands at divorce. Likewise, they could easily deny a widow the portion she was owed as dower from her husband's estate, since Jewish courts in this period typically controlled the disbursement of Jewish inheritances.<sup>97</sup>

Still, this is not the whole story. Maimonides blamed women for Egypt's corrupt menstrual regime ("this neglect came mainly from the women, because they held onto heresy and immersion was hard for them") and targeted them procedurally in radical ways, beyond what even these heavily gendered institutional conditions would have predicted—and even, astonishingly, beyond what his own understanding of rabbinic procedural law itself would seem to have permitted. Enjoining judges to "take pity on the law of Moses [. . .] not on women's dowers," Maimonides did not merely instruct Egypt's Jewish judges to strip specific women accused and proven of menstrual misconduct of their financial rights. More than this, he required judges to use another means of

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96. On these stipulations, their development, and their social uses, see Krakowski, *Coming of Age*, chapter 7. Oded Zinger, "Women, Gender and Law: Marital Disputes according to Documents from the Cairo Geniza" (Ph.D. diss., Princeton University, 2014), makes a similar point about menstrual purity stipulations in particular; see 173, 192–93.

97. Divorce: Zinger, "Women, Gender and Law." Estates: The Fatimid and Ayyubid states sometimes curtailed this power, but not as often as would their successors. This topic deserves more attention than it has received to date. For now, see Goitein, *Mediterranean Society*, 2:395–98, 3:250–60, 277–312; Gil, *Pious Foundations*, 21–22; Eve Krakowski, "Inheritance," *Encyclopædia of Jews in the Islamic World*, expanded online edition (Leiden, 2010).

coercion squarely available to the Jewish courts—oaths, which Jews and Muslims alike in this period took extremely seriously<sup>98</sup>—to threaten the dower rights of *all* widows and women undergoing divorce who entered a Jewish courtroom, even if no one had previously thought to accuse them of menstrual impurity. Every widow who came to court to claim her share of her husband's estate (that is, her dower) should first be subjected to a special menstrual purity oath.<sup>99</sup> Likewise, every time a divorcing couple appeared in court, the judge should remind the husband that she stood to lose her dower for menstrual misconduct ("anyone who divorces, the judge should say to the husband, 'Know that if she didn't immerse in a *mikveh*, or didn't count seven clean days, or performed *sakb*—she has no dower'")—instructions that fly in the face of Maimonides' own statement in the *Mishneh Torah* that judges should not advocate for litigants by enlightening them about any legal arguments that might be made to their advantage.<sup>100</sup> If a husband took the bait and claimed that his wife had indeed neglected to immerse, even if he had no proof, the onus then fell on her to defend herself by swearing about her menstrual practices on a Torah scroll—the most awesome and severe of all Jewish oaths—before she could collect her dower.

### III. THE UNINTENDED OUTCOMES OF REFORM

What happened next? Jewish women in Egypt did eventually begin to practice rabbinic immersion. A cluster of texts from the mid-sixteenth century, over three hundred years after Maimonides' death, suggests that by this date many or most Jewish women in Egypt regularly immersed for menstrual purity—and that Maimonides' writings on the subject remained well known in the region. In this later period a controversy exploded among rabbinic jurists in Egypt over whether women could legitimately immerse in al-Khalj al-Kabīr, a canal in Cairo that filled with water only when the Nile flooded.<sup>101</sup> Jurists on both sides of the dispute

98. See, e.g., Roy Mottahedeh, *Loyalty and Leadership in an Early Islamic Society* (London, 2001), 42–50; Guy Bechor, *God in the Courtroom: The Transformation of Courtroom Oath and Perjury Between Islamic and Franco-Egyptian Law* (Leiden, 2011), 16–142; Gideon Libson, *Jewish and Islamic Law: A Comparative Study of Custom during the Geonic Period* (Cambridge, Mass., 2003), 113–15; Goitein, *Mediterranean Society*, 2:156, 340–41.

99. Added as a rider oath (*gilgul*) to the "widow's oath" a woman had to swear before she could collect her dower, promising that she had not illegally consumed property from her late husband's estate.

100. *MT Sanhedrin* 21.10. I thank one of the anonymous readers of this essay for *JQR* for noting this remarkable contradiction.

101. I am grateful to Pinchas Roth for bringing this incident to my attention. On the controversy, see Dotan Arad, "R. Yoseph Ibn Sayah: A Profile of a



justified their positions against Maimonides' centuries-old rulings on the subject. Their *responsa* about this controversy describe numerous sites of immersion, built *mikva'ot* as well as natural bodies of water, used by women in locales throughout Egypt, including Cairo, Damietta, Rosetta, and unnamed rural villages.<sup>102</sup>

This long-range shift to rabbinic immersion may well trace back to Maimonides' decree. There are hints that a built *mikveh* was installed in the Iraqi-rite Rabbanite synagogue of Fustat shortly after Maimonides' reform (as early as 1198) and that another may have been installed in Cairo around the same time or even earlier—although none of this evidence is clear-cut.<sup>103</sup> Still, Egypt's Jews did not all adopt rabbinic menstrual law overnight. Queries addressed to Maimonides' son Avraham (d.

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Sixteenth-Century Musta'rib Sage" (Hebrew), *Shalem* 8 (2008): 189–95. The argument hinged on the canal's—and due to its flood patterns, also the Nile's—technical validity as a rabbinic *mikveh*, a problem unrelated to my concerns here; for an explanation of the mechanics, see Amalia Levanoni, "Water Supply in Medieval Middle Eastern Cities: The Case of Cairo," *Al-Masaq* 20 (2008): 189–95. Arad, "R. Yoseph Ibn Sayah," situates this controversy within a larger debate in the sixteenth century between native Egyptian and Syrian Jews and immigrants from Spain and elsewhere, who viewed the region's *mikva'ot* as invalid—an echo of the twelfth-century events described in this essay.

102. David ibn Abi Zimra, *Responsa*, vol. 8 (Hebrew; Bnei Brak, 1975), nos. 139 and 141; Arad, "R. Yoseph ibn Sayah." "Centuries-old rulings": Especially Maimonides, *Responsa*, no. 321, which explicitly names the Nile as a valid site for immersion.

103. The earliest potential reference known from the Geniza to a built *mikveh* in Egypt appears in ENA NS 28.15, a communal fiscal register likely written in Cairo as early as the 1180s that mentions a *ḍār maṭbal*, an "immersion building" (using the Hebrew root *t-b-l* in an Arabic form; the proposed date and location hinge on the collector named in this list, Abu al-Munajjā *al-zariz*, who also appears in ENA 4011.28, Cairo, 1181; see Goitein, *Mediterranean Society*, 2:423). I thank Mordechai Akiva Friedman for sharing with me a prepublication excerpt of his essay "Geniza Studies and Maimonidean Research," which notes this document and its significance. T-S 12.872, a note on the verso of a slave's manumission bill from Fustat, 1198, states the slave was immersed (again using the Hebrew root *t-b-l* in an Arabic form) "in the Iraqi synagogue." I thank Moshe Yagur for telling me about this document. See also Goitein, *Mediterranean Society*, 2:155. A contemporary account of a communal controversy that erupted in Jerusalem in 1214 over the construction of a new *mikveh* there, for which communal leaders in Fustat raised funds, also attests to increasing concern for rabbinic immersion in both Palestine and Egypt at this time. See Roni Shweka, "'And Every Day They Make Quarrels': A Chapter from the History of the Jewish Community in Jerusalem in the 13th Century according to Letters of R. Yehiel the Frenchman" (Hebrew), *Sefunot* 25 (2017): 1–56. I am grateful to an anonymous reader of this essay for *JQR* for directing me to this study.

1237) suggest at least some of the practices prevalent in Maimonides' day—including menstrual seclusion, washing immediately after menstruation, and confusion over women's status during the seven "clean" days—remained widespread in Egypt long after his death.<sup>104</sup> Nor was a regional purity revolution the reform's most obvious immediate effect. Surviving sources from the decades after the decree more clearly reflect a different outcome: the decree reduced Jewish women's property rights in marriage, imposing systemic financial hardship on wives as a class without necessarily altering their menstrual practices.

*A. Menstrual purity oaths as a financial stratagem*

The evidence comes in two forms. First, several queries sent to Maimonides describe husbands who refused to pay a wife's dowry at divorce because she had neglected rabbinic immersion.<sup>105</sup> In most of these cases, the wife retorted that she was not to blame: her husband had agreed to her negligence or even forcibly demanded it, e.g., "The wife said, I didn't refuse to (immerse), rather he raped me after I told him that I hadn't immersed; I was forced and overpowered."<sup>106</sup>

The scripted, repetitive quality of these claims and counterclaims suggests that the changes Maimonides introduced to Jewish divorce protocol exacerbated women's disadvantages before the rabbinic courts, granting wide swathes of men a ready means to avoid paying their wives' dowers. One query illustrates clearly how a husband burdened by this debt might find in the decree a welcome excuse not to pay:

A man divorced his wife, and when he was sued for the deferred dowry and the rest of the dowry recorded in her marriage contract, he refused, claiming destitution. His wife (demanded that) he swear an oath (that he was truly) destitute, and the matter remained pending while (they) investigated his means. Then the husband claimed that while she was married to him, his wife had led him to think that she was immersing for her menstruation, but after the divorce he realized that she'd had sex with him while menstrually impure.<sup>107</sup>

This husband went on to demand that his wife swear an oath of her own about her purity before he would acknowledge his debt to her—

104. T-S 8 J 20.20 and CUL Or. 1080 J 244, variants of the same query, both edited and translated in Friedman, "Menstrual Impurity," 16–19.

105. Maimonides, *Responsa*, nos. 12, 234, 369, and 370.

106. Maimonides, *Responsa*, no. 234.

107. Maimonides, *Responsa*, no. 12.

effectively requiring her either to foreswear herself (since the text makes clear that she had not, in fact, immersed throughout her marriage) or to forfeit her dower.

Maimonides knew that his decree had prompted many men to adopt this stratagem insincerely. In his reply to another of these queries, he noted that cases like this one had spread rapidly through Egypt's courts, as husbands who'd been happy to ignore his reform while married developed a sudden concern for rabbinic menstrual purity at divorce: "The (judges) have asked me several times (about women) who agree with their husbands not to immerse for several years. Then they begin fighting and he wants to divorce and says to her, 'Swear to me that you immersed.'" Yet this recognition did not lead him to relax the decree's strictures on the women involved. Instead he reaffirmed that a man who acknowledged colluding in his wife's impurity should be banned and fined, or if he denied the charge, be subjected to a lesser form of oath (the *herem sham*, or "general ban") which might have a chastising effect; either way, such husbands' complicity in no way absolved their wives, who remained the primary target of the reform and who should lose their dowers regardless.<sup>108</sup>

It may come as no surprise that at least one judge tasked with this approach went further, subjecting women to more invasive questioning and reprisals than Maimonides had intended. A query Maimonides received from Alexandria complains that the judge Anatoli b. Yosef, a Provençal immigrant supported by Maimonides, had refused to return a widow's own dowry to her until she swore an oath about her menstrual purity.<sup>109</sup> This was not the husband's dower payment targeted by the decree but the personal property her relatives had given her when she married—in part as a form of long-term inheritance intended to devolve on their own grandchildren.<sup>110</sup> Anatoli's injunction threatened this expectation, causing, the query reports, general consternation in Alexandria among "all who had a daughter to marry." Here Maimonides, faithful to

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108. Maimonides, *Responsa*, 369. Evidence from early thirteenth-century Egypt suggests that the *herem sham* was sometimes pronounced on a Torah scroll in order to increase its gravity; see M. A. Friedman, "The Nagid, the Nasi and the French Rabbis: A Threat to Abraham Maimonides' Leadership" (Hebrew), *Zion* 82 (2017): 247, n. 326.

109. Maimonides, *Responsa*, no. 371. The property at stake was not the widow's dowry items themselves, which had long been sold off, but a sum of money levied from land her husband had owned. On Anatoli's relationship to Maimonides, see Friedman, "Maimonides Appoints R. Anatoly."

110. Krakowski, *Coming of Age*, 143–53.

the normative law as usual, drew the line, responding that Anatoli had overstepped; a woman's right to her dowry did not depend legally on her actions as a wife, "and all who add (to the law) diminish it."

### B. *Menstrual purity in Geniza marriage contracts*

No further responsa of this kind survive from after Maimonides' death; but a second type of text prompted by the decree had a longer afterlife. Egyptian Jewish marriage contracts produced throughout the Ayyubid and Mamluk periods, from shortly after the decree to centuries thereafter, included contract stipulations requiring either the husband or wife or both to guarantee that they would have sex only when the wife was rabbinically pure.

The earliest menstrual purity clause preserved in the Geniza predates Maimonides and appears unrelated to his reform, but the rest bear its imprint directly. I have identified thirty-four such clauses in Geniza marriage documents dating from the late twelfth to the late fifteenth or sixteenth centuries.<sup>111</sup> They appear mainly in *ketubot* and *ketubah* fragments but also in premarital agreements and court records of such agreements, as well as isolated on fragments of paper, likely as scribes' drafts intended to be copied into a contract. Nineteen of the thirty-four are dated or securely datable. The contract that is likely earliest contains a *rashut* clause naming Sar Shalom as *ra'w*; the latest is dated 1499, just a few decades before the early Ottoman controversy about women's immersion in al-Khalīj al-Kabīr mentioned above.<sup>112</sup> Because this corpus is relatively small, likely not exhaustive of all such contracts in the Geniza, and because nearly half the documents are not precisely datable, it does not entirely elucidate how or why these clauses developed. Still, it is sufficient to suggest some of the long-term consequences of Maimonides' reform.

Two distinct types of menstrual clauses developed in the immediate wake of the decree. First, there are promises by the *husband* that he would not have sex with his wife unless she had counted the seven clean days and immersed in a *mikveh*, on pain of having to divorce her and pay her

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111. Listed below in the appendix. Many of these clauses have been mentioned in previous scholarship but to my knowledge they have not previously been examined as a corpus. See, e.g., M. A. Friedman, "Social Realities in Egypt and Maimonides' Rulings on Family Law," in *Maimonides as Codifier of Jewish Law*, ed. N. Rakover (Jerusalem, 1987), 230–31; Ashur, "Engagement and Betrothal Documents," 128.

112. The other fifteen are undated but most seem formulaically and paleographically similar to those dated to the late twelfth and thirteenth centuries. See the appendix for the full list.

dower even against his will, e.g. this clause (the bold text translates Aramaic and the regular type translates Hebrew):

**This groom also accepted upon himself not to come upon her in the way of all the earth after she saw her blood until he knew from her that she had counted seven clean days after she saw her blood and immersed after them in a place fit for immersion and if he did this he must pay her dower, both the minimum and the addition,<sup>113</sup> whether he wishes to separate or doesn't wish to separate.<sup>114</sup>**

Variants of this stipulation appear in the three earliest contracts containing a menstrual clause that can be clearly read, written between about 1194 and 1237 (within Maimonides' own lifetime and that of his son Avraham).<sup>115</sup>

Second, there are promises by the *wife* that she will maintain rabbinic purity or forfeit her dower. These stipulations too are attested in Maimonides' lifetime, in queries sent to him, e.g., "They write thus in marriage contracts: 'so-and-so obligates herself to immerse whenever she needs to for menstrual impurity, and if she refuses, she will go out without a dower, as the Torah requires.'"<sup>116</sup>

A few contracts include both clause types, but most feature only one or the other. Moreover, like other marriage stipulations common in Egypt since the turn of the twelfth century, menstrual purity clauses appear in many but not all marital contracts from this period—suggesting that one or the other clause was included in a given contract sporadically, perhaps for reasons specific to the couple.<sup>117</sup>

And indeed, the two clause types seem to reflect two opposing responses to Maimonides' reform. Those imposed on husbands aimed to reinstate the female property rights threatened by the decree, likely at the behest of a bride's relatives. They echo (and were often assimilated directly to) other marriage contract stipulations prevalent in this period

113. "Minimum and addition": *ikar ve-tosefet*. See above, n. 19.

114. T-S 8 J 6.11, a stand-alone clause labeled *faql* (section) and seemingly drafted to be included in a *ketubah*. The fragment's recto has the first few lines of a *ketubah*, in the same hand and also labeled *faql*, dated 1195.

115. T-S 8 K 6.11, T-S 20.1, and T-S 12.144.

116. Maimonides, *Responsa*, no. 369; cf. no. 234.

117. E.g., Bodl. MS Heb. f. 56.51, from Fustat, 1185, lacks an immersion clause. This is not a *ketubah* but a summary premarital contract; however, it does include several spousal stipulations, which suggests that an immersion clause would not have been included in the *ketubah* eventually drafted for this couple.

that tied a husband's marital behavior to his wife's dower—most notably polygamy clauses, which typically stated that a husband who married again without his wife's consent must “pay her dower and divorce her, whether he wishes to separate or doesn't wish to separate.”<sup>118</sup> Such clauses sought not only to protect women from specific abuses—here, being forced into a polygamous marriage—but also to expand their bargaining power at divorce.<sup>119</sup> By analogy, a husband's pledge that he would safeguard his wife's menstrual purity or “pay her dower [. . .] whether he wishes to separate or doesn't wish to separate” seems designed not only to protect her from specific abuses inspired by the decree (such as being raped and then denied her dower for that reason, as detailed above) but also to restore her legal standing at divorce, allowing *her* to sue *him* for her dower on grounds of menstrual impurity. These pledges turned the tables on Maimonides' decree, holding men rather than women responsible for a couple's menstrual-sexual purity so that a wife's dower might not be held hostage to her purity practices.<sup>120</sup>

In contrast, wives' menstrual clauses merely replicated the decree, emphasizing women's responsibility for menstrual purity at the cost of their dowers. These pledges served no obvious legal purpose, since they added nothing to the divorce protocol Maimonides had already put in place. Maimonides himself described them in a responsum as intended for “heretical” women likely to shirk rabbinic immersion.<sup>121</sup> On this view, particular scribes may have made it a habit to insert these clauses into contracts to reinforce the decree; or they may conversely suggest a bottom-up embrace of Maimonides' decree by some Jewish litigants—or at least by some husbands anxious to underscore their wives' financial liability introduced by the decree.

Whatever their original motives, wives' clauses eventually prevailed. During the thirteenth century, the personal marital stipulations that had been standard in Egyptian Jewish marriage contracts ossified into a limited roster of short, set pledges.<sup>122</sup> These thirteenth-century stipulations

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118. See M. A. Friedman, “The Monogamy Clause in Jewish Marriage Contracts,” *Perspectives in Jewish Learning* 4 (1972), 20–40; Friedman, *Jewish Polygyny in the Middle Ages* (Hebrew; Jerusalem, 1986), 28–45; Krakowski, *Coming of Age*, 254–58. For examples cited in Maimonides' responsa, see, e.g., nos. 45, 372, 373.

119. Krakowski, *Coming of Age*, chapter 7.

120. Maimonides alludes to this practice in a responsum and vehemently denies that a woman protected by this form of clause should receive her dower if she had knowingly violated rabbinic menstrual law; rather, court officials should collect the money from her husband as a fine. *Responsa*, no. 369.

121. Maimonides, *Responsa*, no. 369.

122. See Krakowski, *Coming of Age*, 245, n. 13.

were less detailed and varied than their twelfth-century predecessors, and in the case of menstrual purity they no longer advanced women's interests in the face of Maimonides' decree. The latest datable contracts to impose menstrual pledges on a husband were written in the early thirteenth century (1237 at the latest). After this, husbands' menstrual clauses disappear from the Geniza record and a version of the wife's clause that echoes Maimonides' decree even more closely seems to have become standard in most *ketubot*. These clauses record the court's warning (*batra'ab*) to the wife that she will lose her dower unless she maintains the seven "clean" days and rabbinic immersion (here too the bold text translates Aramaic and the regular type translates Hebrew):

**[We gave warning, we] the signatories, to this bride, and informed her that she [ . . . ] seven [ . . . ] and immersed after them in a place fit for immersion, and if she did not do this, [she would] lose her entire ketubah, and have neither *ikar* nor *tosefet*.**<sup>123</sup>

Far from resisting the decree's punitive approach to women, these later clauses recapitulated it directly, offering personalized proof that the bride had been warned of her potential crime and punishment and that she would thus be liable if she transgressed. Because we know far less about Egypt's Jews during the Mamluk period than about their predecessors, we cannot know why this practice persisted throughout the centuries after Maimonides' death. Did women continue to resist rabbinic immersion even well into the fourteenth and fifteenth centuries? Or did scribes continue to reproduce these clauses long after women had begun to immerse, from what had at some point become rote habit?

The latter is more likely in my view. By the beginning of the Mamluk era, the structure of Jewish leadership in Egypt had shifted once more, with the headship now a hereditary position held by Maimonides' descendants—an ironic twist of history given his own disdain for the office. The "wives' warning" clauses that became standard as fixed formulae in this period seem no longer to reflect debate over his decree on menstruation or difficulty in enforcing it but rather a culture in which the decree's logic, once a novelty in Egypt, had taken root and flourished.

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Three related but distinct systems of medieval Judaism met in Maimonides' decree. This was not the straightforward clash between Karaism and rabbinic law that Maimonides himself invoked to explain his reform. Nor

123. ENA 2560.1. See the appendix for other examples.

did Maimonides' elite commitment to strict Jewish practice simply butt up against the wayward negligence of the masses.

The encounter among Judaisms traced in this essay fits neither of these familiar models. All three systems involved in the reform were maintained by rabbinic Jews, apparently independently of the Karaites around them. Only one amounted to an explicit ideology: the complex network of rabbinic rules Maimonides spent a lifetime digesting from the Talmud, and that the decree aimed to enforce. This normative system appears to us now largely synonymous with medieval rabbinic Judaism, thanks in no small measure to Maimonides' own immense efforts to codify it on paper.

Still, a second rabbinic system reflected in the decree, overlapping with but not identical to the first, is well known to modern scholars thanks to the many legal documents preserved in the Geniza. This was the complex network of legal *practices* maintained by Jewish<sup>124</sup> courts in Egypt—practices that embodied the normative ideal, but only selectively. Rabbinic courts in medieval Egypt never, to my knowledge, sanctioned legal outcomes that violated rabbinic law. The documents they produced made constant appeal to rabbinic norms.<sup>125</sup> Yet many rabbinic rules that made their way into the *Mishneh Torah* are absent from the Geniza legal record. Because Jewish court officials rarely worked to impose rabbinic law from the top down, many domains of the law remained outside their purview entirely—until Maimonides, woman's menstrual purity being a case in point. Even when it came to legal transactions that the courts did routinely regulate (mainly property transfers, marriages, and divorces), some rabbinic norms mattered in practice more than others, since court officials wielded limited powers of enforcement and thus relied on bottom-up support from the Jews among whom they operated—especially from socially prominent Jewish men.

Recent scholarship, including mine, has argued that these limitations produced an especially acute gendered imbalance of power within the Jewish courts.<sup>126</sup> Many women lacked the clout to sway court officials to

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124. This evidence pertains almost exclusively to Rabbanite courts. Very few Karaite legal documents are known beyond a corpus of fifty-five Karaite marriage contracts mainly from the eleventh century, published in Judith Olszowy-Schlanger, *Karaite Marriage Documents*. On the absence of Geniza evidence for standing Karaite courts, see further Oded Zinger, "A Karaite-Rabbanite Court Session in Mid-Eleventh Century Egypt," *Ginze Kedem* 13 (2017): 98–99.

125. See the extended discussion of both points in Krakowski, *Coming of Age*, chapter 2.

126. Oded Zinger, "Women, Gender and Law"; Krakowski, *Coming of Age*, chapter 7.



their side and thus stood at a practical disadvantage in court no matter what their rights on paper. Maimonides' menstrual decree is a test case for both arguments: both for the courts' effective weaknesses and for their gendered consequences.

This was the most ambitious and long-lasting normative rabbinic reform known to us from the history of medieval Egypt—the most extraordinary of a series of novel efforts Maimonides made to bypass the *ra'ṣ al-Yabūd* and the long-standing political habits that had maintained his office, so as to bring rabbinic ideals to life. Yet Maimonides could still enact this reform only from within the narrow channel of legal practices over which the courts had pragmatic control (oaths and the disbursement of women's dowers) rather than via other, equally normative but politically impractical means (lashing men).

Both for this reason and by choice, his decree targeted women to the exclusion of men. Maimonides' aim was not simply patriarchal control for its own sake so much as to install the ideal law *through* (or at the expense of) women. Indeed, the nonrabbinic practices he condemned had limited women's physical movements far more than would the rabbinic ones he championed. But the gendered mechanisms he deployed in the law's defense proved more effective as a patriarchal tool than as a normative rabbinic one: for the first few decades after the decree, there is more evidence that men used its terms as a pretext to dispossess their wives than there is for a mass turn to rabbinic purity law. Before the decree (apparently) succeeded in bringing Egyptian Jews' menstrual practices in line with the rabbinic ideal, it first intensified women's disadvantages before the Jewish courts. The story of this reform suggests both the power rabbinic leaders wielded over women as a class, and the limits of that power—how little even Maimonides himself could do to direct how men used his decree once he had issued it, let alone to dictate Jewish men's or women's private behavior beyond the walls of the *bet din*.

The third system is the most elusive: what I have termed the "common Judaism" targeted by the decree. We know much less about such "common Jewish" practices than about those comprised by either normative law or court protocols. Even with the incomparable wealth of data preserved in the Geniza about Jews' daily lives in medieval Egypt, nearly everything we know about Judaism itself comes from texts that attest to the first two systems: either from normative writings, whether Rabbanite or Karaite, or from legal documents that map directly if incompletely onto such normative works. These texts suggest a landscape of Jewish practices that had been thoroughly rabbinized by the tenth century at the latest, with the exception only of Karaism—itsself an ideology developed

in direct response to rabbinization. Perhaps the most precious historiographical legacy of Maimonides' decree is thus the evidence it preserved that well into the twelfth century, Egyptian Jews who identified as Rabbanites maintained Jewish purity practices at complete odds with rabbinic norms. I have argued that these rituals, while closer to biblical than to rabbinic law, were not simply Karaite borrowings but elements of a more diffuse "common Judaism": long-standing and widespread practices shared un-self-consciously by Rabbanites and Karaites across sectarian borders, independent of their status in either normative system.

Did this "common Judaism" extend to domains beyond menstrual purity? Only one other body of evidence known to me might plausibly be described this way: the vast corpus of medieval Hebrew-script magical texts and references to magic conserved in the Geniza and elsewhere, which reflects a rich, varied, and widespread tradition that was distinctly Jewish but not rabbinic, practiced and legitimated by Rabbanites throughout the Middle East (and which Maimonides, here too following talmudic precedent, likewise opposed vigorously).<sup>127</sup> But other such pockets of nonrabbinic "common" practice may well have remained stitched into the fabric of medieval Jewish life in such ways that they now lie beyond our view: habits and rituals that either violated rabbinic norms or abided alongside and independently of them, but which Rabbanites and Karaites alike understood and took seriously as part and parcel of their Judaism. Maimonides' menstrual reform, an important milestone in the long and winding history of rabbinization, offers a rare indication that even in Ayyubid Egypt—a time and place where Jews had long recognized and legitimated a highly systematized brand of normative rabbinic Judaism—Jewish practices outside the public spheres of congregational worship and the communal courts may have departed significantly from rabbinic norms, in ways that neither the literary nor documentary sources at our disposal consistently disclose.

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127. See the introductions to this literature in Gideon Bohak, "Jewish Magic in the Middle Ages," in *The Cambridge History of Magic and Witchcraft in the West*, ed. D. Collins (Cambridge, 2015), 268–99, 711–19; Bohak, "The Jewish Magical Tradition from Late Antique Palestine to the Cairo Geniza," in *From Hellenism to Islam: Cultural and Linguistic Change in the Roman Near East*, ed. H. Cotton et al. (Cambridge, 2009), 324–39. Karaite authors criticized the Rabbanite legitimization of magic, but it does not necessarily follow that ordinary Karaites never made use of magical materials. By the seventeenth century magical texts begin to appear in Karaite literary manuscripts, despite the earlier polemics; see Bohak, "Rabbanite Magical Texts in Karaite Manuscripts," *Karaite Archives* 1 (2013): 17–34.

## APPENDIX

This appendix lists all Geniza marriage documents known to me that contain menstrual purity clauses. Very few of the *ketubot* are completely preserved; I have labeled fragments containing more than half the original text “*ketubah*” and those containing less than half “*ketubah* fragment.”

## A. Dated or datable documents

<i>Shelfmark</i>	<i>Date and location</i>	<i>Document type</i>	<i>Husband's pledge</i>	<i>Wife's pledge</i>	<i>Wife's warning</i>
Mosseri VII 10,1 <sup>128</sup>	Fustat, before 1132	Premarital			
T-S 20.13	Before 1195, <sup>129</sup> Fustat	<i>Ketubah</i>			
T-S 8 J 6.11 <sup>130</sup>	1195, Fustat	Stand-alone copy or draft of clause	X		
T-S 20.1	Ca. 1210-1225, <sup>131</sup> Fustat	<i>Ketubah</i>	X		
T-S 12.144	1204-1237 <sup>132</sup>	<i>Ketubah</i>	X		
CUL Or. 1080 J 287 <sup>133</sup>	1220/21, Bilbays	Draft or copy of a <i>Ketubah</i>		X	
L-G Misc. 121	1239	<i>Ketubah</i> fragment		X	
T-S 20.77	1239/1240	<i>Ketubah</i>			
T-S 20.64	1241, Fustat	<i>Ketubah</i>	X	X	
ENA 2560.1	1259/60	<i>Ketubah</i> fragment			X
Bodl. Heb. MS a.3.46	Ca. 1368–1377	<i>Ketubah</i> fragment			X
T-S Misc. 29.29 <sup>134</sup>	Late 13 <sup>th</sup> cent., Fustat	<i>Ketubah</i>			X

128. On this document, see above, n. 44.

129. 1195: the document contains a *raḥut* clause naming Sar Shalom as *ra'ū al-Yabūd*.

130. On this document, see above, n. 114.

131. The bride's father appears in Geniza communal payroll lists for Fustat from this period. See Goitein, *A Mediterranean Society*, 2:450, §40.

132. These are the years during which Avraham Maimonides, named in the contract's *raḥut* clause, served as *ra'ū al-Yabūd*.

133. Ed. S. D. Goitein, “Documents on Abraham Maimonides and his Pietist Circle” (Hebrew), *Tarbiz* 33 (1963–64): 181–197.

134. Ed. Eliyahu Ashtor, *History of the Jews in Egypt and Syria under the Rule of the Mamluks*, 3 vols. (Hebrew; Jerusalem, 1970), 3:19.

<i>Shelfmark</i>	<i>Date and location</i>	<i>Document type</i>	<i>Husband's pledge</i>	<i>Wife's pledge</i>	<i>Wife's warning</i>
T-S 8 K 13.11 <sup>135</sup>	1291/92 (?) <sup>136</sup>	Draft of a <i>Ketubab</i>		X	
T-S 20.10 <sup>137</sup>	1310, Fustat	<i>Ketubab</i>			X
T-S 12.39 <sup>138</sup>	1315, Minyat Jamr	<i>Ketubab</i>		X	
T-S Misc. 28.26 <sup>139</sup>	1316, Fustat	<i>Ketubab</i>			X
ENA 2727.14b <sup>140</sup>	1334	Court record of a betrothal			X
Bodl. MS Heb. b. 12.3	1499, Cairo	<i>Ketubab</i>			X
T-S Misc. 28.266	16 <sup>th</sup> century <sup>141</sup>	<i>Ketubab</i>			X

### B. *Undated documents*

<i>Shelfmark</i>	<i>Document type</i>	<i>Husband's pledge</i>	<i>Wife's pledge</i>	<i>Wife's warning</i>
Bodl. MS Heb. b. 12.11	<i>Ketubab</i> fragment		X	
Bodl. MS Heb. d. 65.20	<i>Ketubab</i> fragment	X	X	
Bodl. MS Heb. d. 65.33	<i>Ketubab</i>			X
T-S 8.94	<i>Ketubab</i> fragment	X		
T-S 8.98	Fragment, likely from a <i>Ketubab</i>			
T-S 8.99	<i>Ketubab</i> fragment	X		
T-S 8.135	<i>Ketubab</i> fragment			X
T-S 12.143	<i>Ketubab</i>	X		X
T-S 12.537	<i>Ketubab</i>			X

135. Ed. Friedman, *Jewish Polygyny*, doc. 3–1.

136. The draft is undated; for 1291/92 as its likely date, see Friedman, *Jewish Polygyny*, 96.

137. Ed. Ashtor, *History of the Jews in Egypt and Syria*, 3:39.

138. Ed. Ashtor, *History of the Jews in Egypt and Syria*, 3:42.

139. Ed. Ashtor, *History of the Jews in Egypt and Syria*, 3:43. The image attached to this shelfmark on the Friedberg Geniza Project is of a different text.

140. Ed. Ashur, "Engagement and Betrothal Documents," no. 6-8.

141. Based on the text's illumination and formulary. I'm grateful to Dotan Arad for this identification.

<i>Shelfmark</i>	<i>Document type</i>	<i>Husband's pledge</i>	<i>Wife's pledge</i>	<i>Wife's warning</i>
T-S 16.85	<i>Ketubab</i>	X		X
T-S 16.92	<i>Ketubab</i> fragment	X		
T-S 20.109 <sup>142</sup>	<i>Ketubab</i> fragment			X
T-S 24.8	<i>Ketubab</i>			X
T-S AS 145.386	Fragment, likely from a <i>Ketubab</i>			X
T-S NS 338.109	Fragment, likely from a <i>Ketubab</i>	X		
T-S NS J 363	<i>Ketubab</i> fragment			X

EVE KRAKOWSKI is an assistant professor of Near Eastern studies and Judaic studies at Princeton University.

142. Ed. Ashur, "Engagement and Betrothal Documents," no. 13-7.