A TENTH CENTURY DISQUISITION ON SUICIDE ACCORDING TO OLD TESTAMENT LAW
(From the Kitāb Al-Anwār of Yaʿqūb Al-Qirqisānī)

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The treatise published here for the first time, is remarkable for several reasons. In the first place, it is one of the earliest contributions to an out-of-the-way chapter of Old Testament exegesis, and certainly the earliest one to treat of it in considerable detail. In the second place, it deals with a subject which is, as the author pithily characterizes it, very "outlandish" indeed. And, lastly, it represents a hitherto unpublished chapter from the vastly important code of Karaite law by Yaʿqūb al-Qirqisānī, which is one of our earliest and most reliable sources for the study of Jewish sectarian life during the second half of the first millenium of the Christian era, a period which, through dearth of contemporary source-material and the consequent difficulty of research, has long remained an "empty quarter" so far as historical knowledge was concerned.

The subject of the present text is the question whether suicide is lawful or unlawful from the point of view of the Old Testament. It is no easy subject to treat of, and one that requires both a mastery of the Scriptural text and an expert knowledge of the art of dialectics, for suicide, along with parenticide and

1 On this author and his work see my paper, "Al-Qirqisānī's account of the Jewish sects and Christianity," Hebrew Union College Annual, VII (1930), 317–397, and the references given there. The code, entitled Book of Light-houses and Watchtowers (in Arabic, Kitāb al-Anwār wa-l-Marāqib), was composed in the second quarter of the 10th century.
infanticide, has been left out of the Mosaic legislation, and the four cases of suicide recorded in the Old Testament are really not examples of suicide proper, but rather instances of forstalling by self-destruction an otherwise certain death in a more horrible or disgraceful form, or a life infinitely worse than death.

It is not the purpose of this prefatory note to give a detailed account of the Biblical and post-Biblical attitude towards suicide. Suffice it to say here that in Old Testament times suicide may have been so unusual that the Hebrew language had no word for it, and the expression "he that destroys his own self knowingly," appears first only in the Talmudic literature. In Rabbinic law suicide per se is forbidden, on both legal and moral grounds, except when it is the only way out of forced commission of one of the three capital

3 This is in striking contrast with classical mythology and folk-lore, where all three are fairly common.

3 The suicides are Samson (Judges 16 30), Saul and his squire (I Sam 31 41.), Achithophel (II Sam 17 23), and Zimri (I Kings 16 18). Al-Qirqisânî, being a Karaitc, was obliged to limit his discussion to the Old Testament, since Karaitism does not recognize the authority of the post-Biblical Rabbinic literature.

4 Samson, to avoid ending his days as a slave; Saul and his squire, to avoid capture and torture by the Philistines; Achithophel, foreseeing the collapse of Absalom's rebellion and his own doom; and Zimri, to avoid execution for his revolt.

5 The pertinent literature is very meager: A. Perls, "Der Selbstmord nach der Halacha," Monatsschrift für Geschichte und Wissenschaft des Judentums, LV (1911), 287–295; A. Roth, Eine Studie über den Selbstmord von jüdischem Standpunkt, Budapest, 1878 (Reprint from the magazine ha-Mehaqer); article "Selbstmord" in Hamburger's Realencyclopädie für Bibel und Talmud and in the Judisches Lexikon; article "Suicide" in Hastings' Encyclopaedia of Religion and Ethics. The later literature on suicide, on the other hand, is exceedingly rich (cf. Rost, Bibliographie des Selbstmords, Augsburg, 1927) and includes such authors as John Donne, David Hume, Isaac Watts, Johann Wolfgang von Goethe, Mme. de Staël-Holstein, and the late President Masaryk. In Islam suicide is forbidden on traditional authority only, there being no mention of it in the Koran; an index of the pertinent early traditions is given in Wensinck's Handbook of Early Muhammadan Tradition, Leyden, 1927, s. v. "Suicide." The Moslem suicide is threatened with chastisement in Hell, permanent exclusion from Paradise, and prohibition of prayers for the repose of his soul. In practice, the latter is usually tacitly disregarded, and suicides are accorded the customary burial rites.
sins — idolatry,6 murder, and adultery. The suicide, in theory, is an outcast and has no right to the customary funeral honors, but with their usual worldly wisdom the Rabbis surrounded the pertinent rules of evidence with such difficulties as to make it possible in most cases to give him the benefit of the doubt, and issue a verdict of accidental death or death from unknown cause.7

One word of caution may not be amiss here. It will be noticed that the author deals with his subject in a strictly legal manner; in other words, his interest lies exclusively in the question whether suicide is fas or nefas, not whether it is piyum or impium.8 It would be unjust, however, to conclude therefrom that the moral aspect of the problem was unknown to him or had no meaning for him. It must be remembered that al-Qirqisāni’s work, of which a chapter is here given, is a code of canon law, and that purely moral questions, such as the wickedness of lying, cheating, ill-wishing, etc., are outside of its province, except as they may come in usefully for argumentation or illustration of a point of law.9

The following translation has been kept as close to the original Arabic as was possible, without doing too great violence to the king’s English. Square brackets have been used to enclose explanatory words deemed necessary to elucidate the author’s often much too concise style of expression.

6 This was later interpreted to include apostasy, and served as the legal ground for condoning individual and mass suicide committed in order to avoid forced conversion to Christianity or Islam.
7 This was done by placing particular emphasis on the term ההזמר, “knowingly,” and interpreting it to mean “with the knowledge of both the suicide and the eyewitnesses to the deed.” Thus, even if a man publicly ascends a tree or a roof and falls down to his death, the verdict may not be suicide, so long as he has not expressly stated before the deed that he intended to take his own life, the legal fiction being that there is conceivably a possibility of his having stumbled or lost his balance.
8 Or, to use the Moslem legal terminology, his aim is to find out whether felo de se is harām (forbidden) or halāl (permitted), not whether it is mandūb or ḥasan (commendable or laudable), or makrūh (undesirable, wrong).
9 The Arabic original of the present text (forming the 47th chapter of the 6th part) will appear in the complete edition of the Book of Lighthouses, which is in course of preparation. This particular chapter is found, in frag-
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ON SUICIDE

This is an outlandish subject, and scarcely any writer has anything to say about it. The reason I am mentioning it is that I have seen that some people who pretend to be adherents of pure reason maintain that suicide is permissible and that he who kills himself will incur no punishment [in future life], inasmuch as he has caused harm to no one [else], but has merely injured his own self, which is his [own] property [to do with as he pleases].

I say, therefore, that there is no difference between him who kills himself and him who kills someone else. Should someone ask, why do I say this, I would answer, because the Scripture says [Ex 20:13] "Thou shalt not kill," in a general way, without specifying one object [of killing] to the exclusion of another. In the same manner the Lord has said to Noah [Gen 9:6] "He that sheddeth the blood of man, by man shall his blood be shed." The command [to kill the shedder of blood] and the prohibition [of killing] having thus been given in a general way, we have no right to apply them to specific instances [only], or to make any exceptions, saving what God himself has excepted, either in the very place where He has prohibited [killing], or in another place.

But — the inquirer might continue — thou canst not deny that the expression "Thou shalt not kill" was intended to mean "Thou shalt not kill anyone else," and that one's own self is not included in this prohibition, just as the prohibition of destroying someone else's property does not imply that one may not [lawfully] waste away one's own possessions, since one is surely allowed to give away as much as he wishes of his own wealth,
while at the same time one may not give away property belonging to someone else. Similarly, one may seize a dirham['s] or a dinar['s] worth of one's own property, or more, and throw it away [if one is so minded], notwithstanding that one may not waste as much as [the worth of] a grain of silver of someone else's wealth.

There is also — the inquirer might continue — another way [of looking at the problem], to wit, the fact that the Scripture invariably speaks of things that customarily take place [in actual life]. Now it is not common for men to kill themselves, rather it is men's custom to kill others, out of covetousness, fear, or [a desire for] relief [from oppression]. The prohibition of killing must, therefore, have been issued in this direction; and as for a man killing himself, this is not embraced by the prohibition, since it is an uncommon occurrence and is outside of the [three] varieties of [contributory causes for] killing mentioned above. Moreover, the Scriptural dicta "He that sheddeth the blood of man, by man shall his blood be shed," and [Lev 24 21] "He that striketh a man [to death], let him be put to death," are [evidently] explanatory to "Thou shalt not kill," meaning that it is forbidden to kill him whose murder can possibly be avenged by putting the killer to death [in retaliation] for the victim. Whereas, when a man kills himself, no one else can possibly be held to account for it, nor can the suicide's blood be required, or retaliation demanded, of anyone; this, therefore, does not enter into the prohibition. A further proof of this assertion is the verse [Num 35 33] "And the earth shall not be cleansed of the blood that hath been spilled upon it, save by the blood of him who had spilled it," which shows that the [kind of] killing which is forbidden and of which the earth cannot be cleansed is that of spilling [another man's blood], whereat it is within the realm of possibility to spill the blood of the spiller. Consequently, inasmuch as when a man kills himself it is impossible to spill another blood in retaliation for the spilling of his blood, the earth remains free of blame for his blood, and [it follows that] the [kind of] killing which is forbidden is that which renders it possible to spill the blood of the murderer.
The answer to this is as follows: Granting that all these dicta were uttered with reference to him who kills someone else, [the fact remains that] since the command "Thou shalt not kill" is a general one, I have no right to turn it into a specific one, unless I have proof which makes it specific and shows clearly that suicide is permissible. Now inasmuch as I find nothing of the kind, and perceive no proof of the permissibility of suicide, the prohibition must remain in the state of generality, rendering suicide unlawful and making no distinction between it and murder of someone else. Moreover, I see that the Scripture says [Ez 33:4] "If the listener should hear the sound of the trumpet and take no precaution, and the sword should come and take him away, his blood shall be upon his [own] head," meaning that if one is warned of the sword, but uses no caution and is consequently killed, his blood is upon his own head. Now the latter expression is the same as the one used in the verse [Jos 2:19] "And it shall be that whosoever shall issue from the doors of thine house into the outside, his blood [shall be] upon his [own] head," signifying that he himself shall be held responsible for his own blood, which proves that a man may be held accountable for his own blood, but since retribution cannot possibly be visited upon him in this world, the intention must be that he shall be called to account for it in the next. It is evident, therefore, that suicide is unlawful, and that the suicide is no different from the murderer.

Nevertheless—the inquirer might continue—all my foregoing arguments have shown that the Scriptural command "Thou shalt not kill" is a specific one, and does not cover suicide. However, I shall [disregard it for the moment and shall] add another argument, to wit: the Scripture says [Lev 25:17] "Do ye not cheat one another," forbidding fraud; and further [Deut 22:3] "And thus shalt thou do with what thy brother hath lost;" and also [ibid. 22:4] "Thou mayest not ignore," all these making it unlawful for a man to ignore [his brother's property] that has gone astray and has been lost. Nevertheless, I cannot deduce therefrom that it is unlawful for a man to defraud himself for the benefit of someone else by accepting from him a smaller amount [of merchandise] than that which
he had bought, or a lesser price than that for which he ought to sell, just because it is unlawful for him to defraud someone else in his dealings with him. In a similar fashion, it is not unlawful for a man to ignore that of his own property which he has dropped or has [otherwise] lost, and refrain from searching for it; by the same token, he ought not to be forbidden to take his own life, just because it is unlawful for him to take the life of someone else. As for the injunctions "His blood [shall be] upon his [own] head" and "His blood shall be upon his [own] head," they do not signify that he shall be held accountable for his own blood, but rather that inasmuch as he had not guarded his own life, notwithstanding the sentry's warning, no one else shall be held responsible for his death, and his blood shall remain unavenged, since he himself was the cause of his own perdition. And in fact, after the phrase "His blood [shall be] upon his [own] head" the Scripture goes on to say "And we shall be free of guilt," explaining thereby that whosoever of them shall issue from the gate shall be [regarded as] one who has taken his own life, they being clear of all responsibility for his blood.

Furthermore, we see that [king] Saul has indeed committed suicide, without drawing upon himself the Scripture's condemnation for it, which manifestly proves the truth of what we have said.

The answer to all this is as follows: As for the Scripture's failure to condemn Saul for taking his own life, that is no proof whatsoever, for Saul had committed other sins without being condemned by the Scripture for them. Rather did the Scripture ascribe his perdition to [only] two of his [many] transgressions, to wit, [I Chr 10:1a] "For the Lord's command which he hath not observed," referring to the affair of the Amalekites, and [loc. cit.] "As well as inquiring of the soothsayer and seeking [guidance from him]." It mentions [in this connection] neither his assassination of the Gibeonites, nor his killing of the priests, nor his seeking the life of David, so that even if it were certain that he is free of sin in the matter of his suicide, this would not prove that all suicides are free of guilt. For, as a matter of fact, Saul killed himself because he knew that he was doomed
to die anyway, but fearing that his enemies might torture him
he chose to take his own life before his enemies would [be able
to] take it, or inflict upon him that which is worse than death,
and that is the [true] reason for his suicide having been held
free of blame.

As for the verse “Do ye not cheat one another” and the
passage concerning lost property, both of these have been bound
up with specific things, to wit: “Do ye not cheat one” is followed
by [the specifying word] “another,” so as not to make the com-
mand a general one; likewise, the injunction regarding lost
property has not been left in an indefinite form, but has been
made specific by means of the expression “thy brother”; as a
result, both regulations forbid the [respective] actions [only] as
applied to someone other than thyself. In the matter of killing,
however, the case is different, for the injunction there is a broad
and general one, and has not been restricted to those other
than thyself, as has been done in the preceding examples. The
prohibition “Thou shalt not kill” covers everyone, thyself as
well as others than thyself.

As for the passage “His blood [shall be] upon his [own] head,”
it is followed by “But whosoever shall be with thee within thine
house, his blood [shall be] upon us,” stating [clearly] that should
anyone be killed within [Rahab’s] house, they [the Israelite
spies] would accept responsibility for it, in accordance with
their oath. We are to conclude therefrom that the foregoing
“Whosoever shall issue from the doors of thine house, his blood
shall be upon his [own] head” implies that such a person, having
been killed, is to be held accountable for his own blood.

Another proof — to continue our reply — that suicide is
forbidden is the fact, discussed in a foregoing chapter of our
work, that if a man seeks the life of another man, the pursued
is permitted to kill the pursuer [as a matter of self-defense].
Were the killing of another man [the only kind of killing that is]
forbidden, while suicide were permitted, it would have been
unlawful for me to save him whose killing is permissible [mean-
ing myself] by assassinating him whose killing is [otherwise]
forbidden [meaning my pursuer]. Therefore, since the Scripture
has permitted me to kill another man in order to preserve my
[own] life [against his murderous designs], it is evident that the
duty to save my [own] life and keep it from being lost is greater
than the duty to refrain from killing someone else.

Another proof are the Scriptural statements regarding people
who in times of famine took to eating their [own] children, e. g.
[Thr 4:10] “The hands of merciful women have cooked [the
flesh of] their [own] children.” Should someone retort that
this took place only after the children had died of starvation,
he will have to be confronted with the story of the two women,
one of whom accused the other before [king] Jehoram, saying
[II Kings 6:29] “And she had concealed her son.” The [primary]
source of these [accounts] is the Scriptural curse [Deut 28:53]
“Thou shalt eat the fruit of thine [own] belly,” and if anyone
should claim that this does not imply that it is permitted, but
is rather a statement of the same nature as [Deut 4:28] “And
you shall worship there gods fashioned by human hands,” his
claim would be void, because the latter is a [simple] statement
of their actions and their deliberate choice ot evil [deeds], whereas
“Thou shalt eat the fruit of thine [own] belly” is a forecast of
the trials which are to fall upon them and the dire necessity
which is to force them to [do] such [awful things]. For it is said
[Deut 28:56] “Even the tender and delicate woman amongst
thee,” and the rest of the story, to the effect that there shall
befall them such calamity, [such] want and destitution, that
[even] tender and delicate women will be driven to eat their
[own] afterbirths and their [own] newly-born children, yea, even
while the children are yet alive.

Another proof is that we find that some of the saintly Patri-
archs, e. g., Job, Elijah and Jonah, have, on particular occasions,
wished for death and have besought God, in times of [great]
affliction, to grant it to them. Had they been permitted to take
their own lives, they would have proceeded quickly to do so,
and would have had no need to ask [God] for death. Yet Job
says [Job 3:21] “Those who wait for death, and yet it cometh
not; who would dig for it more [eagerly] than for hidden treas-
ures,” and further [ibid. 3:22] “They that rejoice at finding a
grave.” This is an [especially] strong [piece of] evidence, show-
ing that a man may not kill himself, any more than he may kill
someone else, there being no difference between the two [cases].

At this point one may ask: If it is unlawful for a man to take his own life, on the ground of the verse “Thou shalt not kill,” suppose he had committed a crime calling for capital punishment, is he permitted in such a case to commit suicide for that [particular] reason? For the Scripture, in saying [Ex 23:7] “Kill not the innocent and righteous,” forbids only the assassination of those free of crime or wrongdoing, and you [yourself] have said that he who kills a man who deserves killing is free of responsibility for it, even if this had happened without a judge[’s authorization] and in the absence of witnesses [as required for a legal execution, but had taken place privately in the way of self-defense]. Moreover, the Scripture itself requires the execution of the murderer, the adulterer and the profaner of the Sabbath; therefore, if a man has committed one of these [capital] crimes, admit then that he may lawfully take his own life.

Our answer to this is as follows: If the one who kills himself for the sake of his [grave] sin and his disobedience [to God’s commands] does so solely in order to seek God[’s forgiveness] and to undo that which he has wrought, there is [at his disposal] that which is more efficacious than suicide and which might undo many [capital] sins, to wit, repentance, for his suicide merely wipes out one of his sins, whereas repentance would undo all of them. This being so, it is many degrees better for him to preserve his life in order to repent and come back to God, rather than take his own life, for by remaining alive it is within his power to perform various good deeds, such as would make his repentance doubly beneficial. Suicide, on the other hand, can perform nothing of the sort. It is [clear], therefore, that he may not commit suicide under any circumstances.