

The Antiquity of the Commandments in the Thought of Ya‘qūb al-Qirqisānī: An Analysis of *Kitāb al-Anwār w-al- Marāqib* 4:52–58*

Aviram Ravitsky

Ariel University; aravitsky@gmail.com

■ Abstract

The question of whether the divine commandments were observed prior to the revelation at Sinai has vast theological and hermeneutical implications. The first known systematic account that has reached us on the question of the antiquity of the commandments is found in the tenth-century Karaite scholar Ya‘qūb al-Qirqisānī’s *Kitāb al-Anwār w-al-Marāqib*. Qirqisānī discusses two theories: according to the first, the divine commandments were given already to Adam; and according to the second, God’s law was given in an accumulative process, the Torah being developed in accordance with the historical circumstances. This article analyzes the two theories and demonstrates that they are rooted in a Muslim-Jewish debate, conducted in the first half of the ninth century, about the Muslim principle of abrogation (*naskh*), and that the historical context of the argument on the subject probably was that of the interreligious debates that took place in Qirqisānī’s time.

■ Keywords

Qirqisānī, Karaites, abrogation of law, antiquity of law, al-Nazzām

* I would like to thank professors Warren Z. Harvey, Haggai Ben-Shammai, Yoram Erder, and Miriam Goldstein for reading the first version of this article and making enlightening comments.

© The Author(s), 2024. Published by Cambridge University Press on behalf of the President and Fellows of Harvard College. This is an Open Access article, distributed under the terms of the Creative Commons Attribution licence (<http://creativecommons.org/licenses/by/4.0/>), which permits unrestricted re-use, distribution, and reproduction in any medium, provided the original work is properly cited.

HTR 117:4 (2024) 744–769



■ Introduction

The question of whether the Torah was given in a one-time revelation on Sinai or in an ongoing chronological process has occupied generations of Jewish thinkers.¹ This is above all an exegetical question. On the one hand, Scripture ties the divine command to the stories about the biblical heroes and the lives of the patriarchs; but on the other hand, it also ascribes constitutive importance to the revelation on Sinai, through which God's will and binding law became known to the people of Israel. However, already in antiquity, and all the more so in the Middle Ages, various opinions emerged that indisputably deviated from the purely exegetical discussion, inasmuch as they also carried legal, theological, and ideological implications.

According to a commonly held position in talmudic and midrashic literature, the commandments preceded the giving of the Torah on Sinai: "We find that Abraham our forefather fulfilled the entire Torah before it was given, as it is stated: 'Because that Abraham listened to My voice, and kept My charge (משמרתִי), My commandments (מצוותִי), My statutes (חקותִי), and My laws (חוקותִי)' " (Mishnah, *Kiddushin* 4:14).² Alongside those who believed in the antiquity of the commandments, we also find sages who held that the commandments were given in a gradual, historical process. For example, in *Pesikta de-Rav Kahana* (Baḥodesh) 12:1, we read: "Rabbi Judah son of Rabbi Simon said: 'Many daughters have done noble things, but you surpass them all'—Adam received six commandments . . . Noah was commanded concerning eating flesh torn from a living animal . . . Abraham was commanded concerning circumcision . . . Jacob concerning the thigh tendon . . . Judah concerning levirate marriage . . . but you were commanded 613 commandments at Sinai."³

¹ See the sources in Yochanan Silman, *The Voice Heard at Sinai: Once or Ongoing?* (Jerusalem: Magnes, 1999) (Hebrew). The texts in Silman's research deal mainly with the issue of whether the giving of the Torah was a one-time revelation at Sinai or an ongoing chronological process after the Sinai revelation. However, there is a conceptual resemblance between this issue and the question that is discussed in this article, namely: What was the status of the commandments before the revelation at Sinai?

² *Shishah Sidrei Mishnah* (ed. Ḥanoch Albeck; 7 vols.; Jerusalem: Bialik Institute; Tel Aviv: Dvir, 1959) 3:330. Quotations from the Bible in this article are based upon the NIV and KJV (with emendations). According to Epstein, these words were added to the Mishnah from the Tosefta; see Jacob N. ha-Levi Epstein, *Mavo le-Nosah ha-Mishnah* (2nd ed.; Jerusalem: Magnes; Tel-Aviv: Dvir, 1964) 2:977; cf. Saul Lieberman, *Tosefta Ki-fshutah* (10 vols.; New York: Jewish Theological Seminary, 1995) 8:986–87.

³ *Pesikta de-Rav Kahana* (ed. Bernard [Dov] Mandelbaum; New York: Jewish Theological Seminary, 1962) 202–3. For an analysis of the different talmudic approaches to the antiquity of the commandments, see Louis Ginzberg, *The Legends of the Jews* (trans. Henrietta Szold; 7 vols.; Baltimore: Johns Hopkins University Press, 1998) 5:259 n. 275; Ephraim E. Urbach, *The Sages: Their Concepts and Beliefs* (2nd ed.; Jerusalem: Magnes, 2006) 281–82, 295–96 (Hebrew); Steven Wilf, *The Law Before the Law* (Lanham: Lexington Books, 2008) 83–133; Yakir Paz, "Prior to Sinai: The Patriarchs and the Mosaic Law in Rabbinic Literature in View of Second Temple and Christian Literature" (MA diss.; The Hebrew University, 2009) (Hebrew) (I would like to thank Dr. Lior Sacks-Shmueli for drawing my attention to this work). On the commandments that were

One of the most sophisticated and systematic medieval discussions dedicated to the antiquity of the commandments is found in the work of the well-known tenth-century Karaite scholar Ya'qūb al-Qirqisānī—*Kitāb al-Anwār w-al-Marāqib* (Book of Lights and Observatories). In chapters 52–58 of the fourth treatise of his work,⁴ Qirqisānī discusses two principal positions: the first is that of the Ananites and some of the Karaites, according to which all the commandments reach back to Adam (henceforth: the antiquity position); and the second, according to which only some commandments are ancient and over time their number increased in a gradual process until the Torah was finally completed by Moses (henceforth: the accumulation position).

In the present study I will analyze Qirqisānī's discussion of the two positions. I will review the theoretical-logical part of his discussion and explain the Jewish-Muslim polemical context that is its basis. I will also present the exegetical foundations of the different positions as they were presented by Qirqisānī. Finally,

given at Marah, see Chaim Milikowsky, "Parah Adumah Lifnei Sinai—Masoret Qedumah O ta'ut Sofrim," in *Studies in Rabbinic Literature, Bible and Jewish History* (ed. Yitzhak D. Gilat et al.; Ramat Gan: Bar Ilan University Press, 1982) 268–76. For rabbinic analysis of the commandments that talmudic literature deduced from stories about the forefathers that preceded Sinai, see R. Zvi Hirsch Chajes, *Sefer Torat Nevi'im ha-Mechuneh Eleh ha-Mišvot* (Jerusalem: Divrei Hakhmim, 1958) 63–72, 105; Aaron Keller, "Mišvot ve-Halakhot she-Nitnu Qodem Matan Torah," *Shevillim* 33–35 (1984) 233–45. Scholars have noted the ahistorical nature of the talmudic position, according to which the entirety of the commandments preceded Sinai, and some researchers connected it to the anti-Christian polemic. See Isaac Heinemann, *Darkei ha-Aggadah* (Giv'atayim: Magnes and Masada, 1970) 37–39; David Rokeah, "Early Christian-Jewish Polemics on Divine Election," in *Chosen People, Elect Nation and Universal Mission* (ed. Shmuel Almog and Michael Heyd; Jerusalem: Zalman Shazar Center, 1991) 71–98, at 87–88 (Hebrew); Uriel Simon, "Peshat Exegesis of Biblical Historiography: Historicism, Dogmatism, and Medievalism," in *Tehillah le-Moshe: Biblical and Judaic Studies in Honor of Moshe Greenberg* (ed. Mordechai Cogan et al.; Winona Lake, IN: Eisenbrauns, 1997) 171–203, at 181 (Hebrew). The issue also occupied various writers of the non-talmudic Jewish literature of the end of the Second Temple period. References to the subject can be found in the *Damascus Covenant* and the *Book of Jubilees*, both works related to the Judean Desert Sect, and in the writings of Philo. See Gary Anderson, "The Status of the Torah Before Sinai: The Retelling of the Bible in the Damascus Covenant and the Book of Jubilees," *DSD* 1 (1994) 1–29, at 15–29; Michael Segal, *The Book of Jubilees: Rewritten Bible, Redaction, Ideology and Theology* (Boston: Brill, 2007) 273–82; Harry A. Wolfson, *Philo: Foundations of Religious Philosophy in Judaism, Christianity, and Islam* (2 vols.; Cambridge: Harvard University Press, 1948) 2:180–82. The Christian writers expressed their opinion on this subject, like Paul in his Epistle to the Romans and several church fathers. See Gary Anderson, "The Status of the Torah in the Pre-Sinaitic Period: St. Paul's Epistle to the Romans," in *Biblical Perspectives: Early Use and Interpretation of the Bible in Light of the Dead Sea Scrolls* (ed. Michael E. Stone and Esther G. Chazon; Leiden: Brill, 1998) 1–23, at 9–23; Paz, "Prior to Sinai," 22–29, 35–41. Muslim thinkers discussed the question of the moral status of beneficial human actions before the revelation; see A. Kevin Reinhart, *Before Revelation: The Boundaries of Muslim Moral Thought* (New York: SUNY Press, 1995). However, the Muslim discussions on this issue are, in their essence, epistemological and theological rather than "historical," whereas the issue in the Jewish-Christian sources is more historical-exegetical.

⁴ Ya'qūb al-Qirqisānī, *Kitāb al-Anwār w al-Marāqib* (ed. Leon Nemoj; 5 vols.; New York: Alexander Kohut Memorial Foundation, 1939–1943) 2:440–70; French translation in Georges Vajda, "Études sur Qirqisānī," *REJ* 120 (1961) 211–57, at 234–257. All the translations from the Arabic in this article are mine.

I will discuss the historical conclusions that can be drawn from Qirqisānī's presentation and formulation of the subject.

■ The Antiquity Position of the Ananites and Karaites, according to Qirqisānī

According to Qirqisānī, the antiquity position was formulated in response to the Muslim abolition claim (*naskh*), according to which the Torah of Moses was true until it was abolished by God's revelation to the prophet of Islam:⁵

Some of the Ananites and a group of the Karaites claimed that all the commandments given by God through Moses were given already when God created Adam, none has been added and none has been deducted since then. They were spurred to adopt this position out of fear(?)⁶ lest they would have to acknowledge (ان يلزمهم) the abolition of the Torah (نسخ الشريعة), as espoused by the Muslims.⁷

Qirqisānī's words are grounded in the reality of the time—by this I mean the interfaith encounters (*majālis*) that took place in Qirqisānī's time, in which Jews and Muslims, among others, debated theological issues.⁸ The position was formulated out of fear, meaning within the framework of preparations for an interfaith debate in which the Muslims would present their *naskh* argument, and the Jews—in this case Ananites and Karaites⁹—would argue in favor of the eternal validity of the

⁵ On the principle of *naskh* in Muslim jurisprudence, see John Burton, *The Sources of Islamic Law: Islamic Theories of Abrogation* (Edinburgh: Edinburgh University Press, 1990). On the principle in the field of interreligious controversy, see Hava Lazarus-Yafeh, *Intertwined Worlds: Medieval Islam and Bible Criticism* (Princeton: Princeton University Press, 1992) 36–37. The abolition claim was known already in the days of Qirqisānī; see Camilla Adang, *Muslim Writers on Judaism and the Hebrew Bible* (Leiden: Brill, 1996) 194–97. The claim that, just as the patriarchs did not observe the Torah of Moses, which abolished the revelation to the patriarchs, so the revelation to the prophet of Islam abolishes the Torah of Moses, can be found in Muslim literature after Qirqisānī; see Adang, *Muslim Writers*, 218–19. However, it is conceivable that these claims were already expressed in earlier periods. See Yoram Erder, "Early Karaite Conceptions about Commandments Given Before the Revelation of the Torah," *PAAJR* 60 (1994) 101–40 at 106 n. 11, and cf. idem, "The Karaites on Commandments Arise from Human Initiative in Light of Their Discussion of the Sciatic Tendon," *Shnaton: An Annual for Biblical and Ancient Near Eastern Studies* 26 (2020) 283–317, at 316–17 (Hebrew).

⁶ The question mark appears in Nemoj's edition.

⁷ Qirqisānī, *Kitāb al-Anwār*, 2:440.

⁸ See David E. Sklare, "Responses to Islamic Polemics by Jewish Mutakallimūn in the Tenth Century," in *The Majlis: Interreligious Encounters in Medieval Islam* (ed. Hava Lazarus-Yafeh et al.; Wiesbaden: Harrassowitz, 1999) 137–61. Qirqisānī himself took part in such encounters; see Rina Drory, *The Emergence of Jewish-Arabic Contacts at the Beginning of the Tenth Century* (Tel Aviv: Hakibbutz Hameuchad, 1988) 98, paragraph 3 (Hebrew). Also, the term *ilzām* used by Qirqisānī is connected to the reality of the controversy. On *ilzām*, see Josef van Ess, "The Logical Structure of Islamic Theology," in *Logic in Classical Islamic Culture* (ed. G. E. von Grunebaum; Wiesbaden: Harrassowitz, 1970) 21–50, at 29.

⁹ According to this analysis, Qirqisānī seems to be referring to opinions expressed by contemporary Ananites and Karaites. On the Ananites and Karaites of Babylon in the time and place of Qirqisānī,

Torah of Moses. In response, the Muslims would argue that the Torah of Moses itself abolished previous revelations, and the Jews would then defend their faith by claiming that the Torah of Moses was in force already in the time of Adam and therefore could not possibly be abolished.

According to Qirqisānī, this ahistorical attitude toward the commandments is based on several theological considerations:

1. God's commandments reflect truth and wisdom and must therefore be ancient and unchanging like them: "Those who reject the abolition of the laws rely on the following proof: Since God's imperatives reflect truth and wisdom (حق و حکمة), the essence of which cannot change and turn into falsehood and folly, it is inconceivable that God would abolish or invalidate his law."¹⁰ The perception of the Torah as being eternal, on the basis of its identification with wisdom, is already found in ancient Jewish sources. According to Michael Segal, in the Jewish literature of Second Temple period, it is possible to discern a process of identification of wisdom with the Torah,¹¹ and if one combines the biblical motif of the eternity of wisdom¹² with the transition from wisdom to Torah, one easily arrives at the conclusion that the Torah and its commandments also are eternal. Segal suggests this to be the foundation of the ahistorical perception of the commandments in the *Book of Jubilees*, and this is what makes room for the talmudic view of the patriarchs as having observed the Torah before it was given on Sinai.¹³ It is possible that a similar exegetical process lies at the root of the Ananite-Karaite position. However, it is also possible that a combination of biblical sources with the Mu'tazilite theology, according to which all of God's actions and commandments are wisdom, is the foundation for the Ananite-Karaite position.¹⁴

see Haggai Ben-Shammai, "Between Ananites and Karaites: Observations on Early Medieval Jewish Sectarianism," in *Studies in Muslim-Jewish Relations* 1 (1993) 19–28, at 23. However, the words of Qirqisānī could also be understood as referring to the positions of Ananites and Karaites of previous generations.

¹⁰ Qirqisānī, *Kitāb al-Anwār*, 2:441.

¹¹ For example, in Ps 119:98–99 and Ben-Sira 24:25–28, and cf. Deut 4, 6. This matter is also related to the comparison of the Torah to nature in biblical sources. See Markus Bockmuehl, "Natural Law in Second Temple Judaism," *VT* 45 (1995) 17–44, at 27–28. On the complex relationship between God, wisdom, and the Torah, in the Bible and in the Second Temple period, see Peter Schäfer, *Mirror of His Beauty: Feminine Images of God from the Bible to the Early Kabbalah* (Princeton: Princeton University Press, 2002) 19–57.

¹² According to Segal, *Book of Jubilees*, this motif is emphasized in biblical sources, e.g., Prov 3:19–20; 8:22–31; and see Ben-Sira 1:1–18.

¹³ Segal, *Book of Jubilees*, 277–78; cf. Cana Werman, "The תורה and the תעודה Engraved on the Tablets," *DSD* 9 (2002) 75–103, at 93.

¹⁴ For this Mu'tazilite notion, see Haggai Ben-Shammai, *A Leader's Project: Studies in the Philosophical and Exegetical Works of Saadya Gaon* (Jerusalem: Bialik Institute, 2015) 110–21, esp. 118 (Hebrew); and see below on al-Nazzām's debate. It is possible that Neoplatonic ideas about wisdom (or "intellect") as a metaphysical substance emanating from "The One" also are the basis for the Ananite-Karaite conception of the eternity of wisdom. From the second half of the 9th cent., and certainly in the generation of Qirqisānī, Jews could have been influenced by Arabic Neoplatonic texts. On the formation of these texts around the middle of the 9th cent., see Peter

2. The Ananite-Karaite position is also rooted in Mu'tazilite theology, according to which the will of God reflects an objective good, available to humans through their reason—"God is just" in his actions and in his commandments: "One of them also claimed that since God, may he be exalted, is just (عدلًا), and his commands make human beings worthy of receiving reward, it is inconceivable that he should make only some of his creatures worthy of receiving reward and not the rest [of human beings]."¹⁵ According to this view, it is not the divine command that makes something good; rather, it is the objective good that is reflected in the divine command.¹⁶ Thus, the deeds of God are righteous, and God rewards his servants according to their righteousness. This leads to the following argument: Discrimination between human beings is unjust; hence, it cannot be attributed to God. If the commandments were not eternal and universal, they would constitute a kind of discrimination, which would mean that God acts unjustly, as only those commanded have been provided with a means to receive reward. In sum: God's commandments are universal;¹⁷ the entirety of the commandments is ancient and fixed, for all human beings and for all times.

3. Moreover, the Ananite-Karaite position also claims that the commandments are perfectly consistent and that there can be no contradiction between them. It is inconceivable that God would command mutually contradicting commandments in a way that both lead to the same reward—not in relation to the same person at

Adamson, *The Arabic Plotinus: A Philosophical Study of the "Theology of Aristotle"* (Piscataway N.J.: Gorgias, 2017) 8–9; Paul B. Fenton, "The Arabic and Hebrew Versions of the *Theology of Aristotle*," in *Pseudo-Aristotle in the Middle Ages: The "Theology" and Other Texts* (ed. Jill Kraya et al.; London: Warburg Institute, 1986) 241–64, at 242.

¹⁵ Qirqisānī, *Kitāb al-Anwār*, 2:442.

¹⁶ On the ethics of the Mu'tazilah, see George F. Hourani, *Islamic Rationalism: The Ethics of Abd al-Jabbar* (Oxford: Clarendon, 1971) 8–14; Majid Fakhry, *Ethical Theories in Islam* (Leiden: Brill, 1991) 31–45; and cf. Joseph van Ess, *Theology and Society in the Second and Third Centuries of the Hijra* (trans. Gwendolin Goldbloom; 5 vols.; Leiden: Brill, 2017–2020) 3:271–72, 437–48.

¹⁷ In the fragment of a Karaite work published by Moshe Zucker, there is a clear tendency toward the universalization of the commandments. In Zucker's opinion this is a "remnant of a special work on this matter"—that is, the antiquity of the commandments; see idem, *Rav Saadya Gaon's Translation of the Torah: Exegesis, Halakha and Polemics* (New York: Feldheim, 1959) 480 (Hebrew). On one of the proponents of the antiquity of auditory commandments, Ibrāhīm al-Baghdādī, who was mentioned by Ms'ūdī, see ibid., 449. The universalistic approach to commandments is related to another issue, namely, the obligation of the Gentiles regarding the commandments of the Torah, a subject widely discussed by Rabbanites and Karaites in the 9th–11th cents.; see David Sklare, "Are the Gentiles Obligated to Observe the Torah?: The Discussion Concerning the Universality of the Torah in the East in the Tenth and Eleventh Centuries," in *Be'erot Yitzhak: Studies in Memory of Isadore Twersky* (ed. Jay M. Harris; Cambridge: Harvard University Press, 2005) 311–46, esp. 334–35; Haggai Ben-Shammai, "Some Genizah Fragments on the Duty of the Nations to Keep the Mosaic Law," in *Genizah Research After Ninety Years: The Case of Judaeo-Arabic* (ed. Joshua Blau and Stefan C. Reif; Cambridge: Cambridge University Press, 1992) 22–30, esp. 27–28. The universalistic view of the Torah has ancient Jewish origins, and in Tannaitic literature one can discern a current according to which the Torah was intended for the Gentiles, too. See Marc Hirshman, *Torah for the Entire World* (Tel-Aviv: Hakibbutz Hameuchad, 1999) (Hebrew).

the same time, not in relation to several people at the same time, and not in relation to several people at different times.

4. According to the Ananites and Karaites moral commandments are the standard for all the commandments (with regard to the impossibility of their abolition):

They also claimed: If it was possible for God to abolish his laws, it would be possible for him to abolish the prohibition against lying and permit it, and so also with regard to killing children, and so it would be possible for him to permit his being cursed and to forbid thanking him and praying to him. They said: Since according to our opponents these things cannot be abolished, it is impossible to abolish anything commanded by God.¹⁸

The examples provided by the Ananites and Karaites—“prohibition against lying,” “killing children,” and the like—teach that, in their view, moral commandments are the standard for all the commandments: If moral commandments are eternal, so are all the commandments.¹⁹ Whereas the Mu‘tazilites distinguished between rational and revelatory (or auditory) commandments,²⁰ the Ananites and Karaites who held the antiquity position implicitly rejected this distinction. In fact, the Ananites and Karaites turned the Mu‘tazilite recognition of moral-rational obligations into an argument in support of the eternal validity of the Torah of Moses, and indirectly into an argument against the validity of Islam. According to them, just as “according to our opponents” (referring to Muslims who agree that there are moral, non-abolishable commandments—perhaps members of the Mu‘tazilah), commandments like lying and murdering cannot possibly be relative and subject to change, so “our opponents” must concede that none of the commandments can change, and the abolition claim has therefore been refuted.

¹⁸ Qirqisānī, *Kitāb al-Anwār*, 2:442.

¹⁹ I do not claim that, according to the Ananites and Karaites, all the commandments can be derived solely through human reason without need for revelation—a position that may override the need for revelation, like the position attributed in Arabic and Jewish literature to the Barāhima. According to the Ananites and Karaites, all the commandments are equal to what the Mu‘tazilites called “rational commandments,” only in the sense that they cannot be abolished. On the Barāhima, see Sara Stroumsa, “The Barāhima in Early Kalām,” *JSAI* 6 (1985) 229–41. On the connection between the position that sees the human intellect as sufficient for knowing the truth and the position that denies the abolition of the law, see *ibid.*, esp. 231–34.

²⁰ On the distinction between the two types of commandments, see: Hourani, *Islamic Rationalism*, 129–37; Fakhry, *Ethical Theories*, 33–34. The terms “rational obligations” (واجبات عقلية) and, opposing them, commandments known through “audition” (بالسمع) appear in the descriptions of the positions of al-Jubbā‘ī (d. 915 or 916) and his son Abū Hāshim (died 933); see Muḥammad al-Shahrastānī, *Kitāb al-Milal wa-al-Niḥal* (ed. William Cureton; London: Society for the Publication of Oriental Texts, 1846) 31, 55; English paraphrastic translation in Muḥammad b. ‘Abd al-Karīm Shahrastānī, *Muslim Sects and Divisions: The Section on Muslim Sects in Kitāb al-Milal wa ‘l-Niḥal* (trans. A. K. Kazi and J. G. Flynn; London: Kegan Paul International, 1984) 42–43, 66.

■ The Debate between Ibrāhīm al-Nazzām and Menasheh Ibn Ṣāliḥ

The antiquity position held by the Karaites and Ananites and the opposing accumulation position held by Qirqisānī (to be discussed below) parallel two positions found in a text describing a debate between the Mu‘tazilite scholar Ibrāhīm al-Nazzām (d. between 835 and 845) and a Jewish scholar named Menasheh (Yassā in another version of the debate) Ibn Ṣāliḥ. The text may have undergone Christian redaction,²¹ and doubt may be cast on the historical reliability of some of its details and even on the authenticity of the personal debate between these two figures. However, as Haggai Ben-Shammai argued, the line of reasoning ascribed to al-Nazzām in this text may quite possibly reflect an early Mu‘tazilite position.²² Similarly, Menasheh’s position may reflect a Jewish response of those days to the Islamic abrogation claim.

In the debate, Menasheh argues that God decrees a law (بشريعة) only as it is wisdom (حكمة), and hence, al-Nazzām’s Muslim position (according to which God decreed a law and then after a while abrogated it) means that God in fact “prohibited an act of wisdom.” Namely, wisdom cannot change over time according to God’s arbitrary will.²³

To this al-Nazzām replies: “Wisdom is of two kinds: (first), wisdom as such, non-contingent (حكمة بعينها, لا لعلّة), such as justice, faith honesty and charity [. . .] (second), wisdom which becomes such contingent upon its very decree (لعلّة الامر بها), such as ritual, prayer, and fasting.”²⁴ According to al-Nazzām, the principle of abrogation applies only to the second kind of wisdom. Indeed, Menasheh holds that the law of Moses is of the first kind—it is “good as such (حسنة لا عيانها)”²⁵—and

²¹ See Haggai Ben-Shammai, “Jewish Thought in Iraq in the 10th Century,” in *Judaeano-Arabic Studies: Proceedings of the Founding Conference of the Society for Judaeano-Arabic Studies* (ed. Norman Golb; Amsterdam: Harwood Academic, 1997) 15–32, at 26. However, the Muslim polemics against Judaism bear traces of Christian influences, and it is possible that the Christian ideas reflected in this text do not indicate Christian editing but rather Muslim use of Christian arguments against Judaism. See Moshe Perlmann, “The Medieval Polemics between Islam and Judaism,” in *Religion in a Religious Age* (ed. Shelomo D. Goitein; Cambridge, MA: Association for Jewish Studies, 1974) 103–38, at 106.

²² See Ben-Shammai, “Jewish Thought in Iraq,” 26. For further discussion of this text, see van Ess, *Theology*, 3:428–30. Van Ess points out that the text does not unequivocally attribute these words to al-Nazzām: “It has been asserted [زعموا] that Ibrāhīm al-Nazzām met the Jew Yassā b. Ṣāliḥ . . .”; see John Wansbrough, *The Sectarian Milieu: Content and Composition of Islamic Salvation History* (Oxford: Oxford University Press, 1978) 110; Arthur S. Tritton, “‘Debate’ Between a Muslim and a Jew,” *Islamic Studies* 1 (1962) 60–64, at 63. However, according to van Ess, “there is no real reason why we should doubt the text.” According to him, the thought pattern reflected in the text fits the words of al-Nazzām elsewhere, and in his discussions van Ess attributes the positions in the text to al-Nazzām himself. Cf. Tritton, “Debate,” 60, and below.

²³ Tritton, “Debate,” 63, and cf. Perlman, “The Medieval Polemics,” 111.

²⁴ Tritton, “Debate,” 63.

²⁵ *Ibid.*, although later on (63–64) Menasheh raises an objection against the words of al-Nazzām, claiming that it is inconceivable that God should command the Torah for all eternity and then abolish it. In other words, at least for the sake of argument, Menasheh argues that the eternity of the Torah follows from God’s declaration that it is such and not from its being unchanging wisdom.

hence, according to al-Nazzām's own stance, it cannot be abrogated. That is to say, at least with regard to the Torah of Moses and in the polemical context against the Muslim claim of abolition, Menasheh rejects al-Nazzām's distinction between different types of commandments. To this, al-Nazzām replies that, if Moses's law is good as such, human beings would know its goodness whether or not it had been revealed through a prophet (رسول), but the case is that not all of Moses's laws would have been known without God's revelation.²⁶

The debate between the Jew and the Muslim continues, proceeding to theological issues related to the authority of the prophets and the temporal validity of God's law. For our purposes it will suffice to notice that Menasheh's position is similar in its principal characteristics to the Ananite-Karaite stance reviewed by Qirqisānī. As with the Ananite-Karaite stance, Menasheh's position was also from the outset formulated as a counterargument to the Muslim abolition claim. It consistently claims that the commandments reflect wisdom and are eternal like it, rejects the Mu'tazilite distinction between rational and auditory commandments,²⁷ and views the entire Torah of Moses as being eternal and based on "wisdom." Thus, the Ananite-Karaite position reviewed by Qirqisānī complements Menasheh's position: Menasheh claimed *a parte post*—the Torah, once having been given by Moses, became eternally valid for all future—thus rejecting the possibility of its being changed. The Ananites and Karaites claimed *a parte ante*—the Torah has existed eternally in the past—thus insisting on the antiquity of the commandments.

Correspondingly, and as will be demonstrated shortly, Qirqisānī's position is a systematic development of the Mu'tazilite position of al-Nazzām.²⁸ In his

²⁶ Ibid., 63, English translation, *ibid.*, 60–61. For another version of the debate and its English translation, see Louis Cheikho, *Vingt traités théologiques d'auteurs arabes chrétiens, IXe–XIIIe siècle* (Beirut: Imprimerie Catholique, 1920) 68–70; Wansbrough, *The Sectarial Milieu*, 110–12. There is no place for the claim that the dialogue is of "fictive character," since the Jewish position, which identifies the Torah with wisdom and concludes that the Torah is eternal, is inconsistent with the hermeneutic methods that expound the Torah and expand its applications (see Wansbrough, *The Sectarial Milieu*, 112). In the days of al-Nazzām, Jews could have been familiar with talmudic positions, according to which the hermeneutic methods (*middot*) are intended to establish a link between traditional laws and biblical verses, or to enable derivation of laws from cases that were dealt with in the written law to new cases. According to both positions, the revealed law can be considered as eternal wisdom. On the attitude toward the hermeneutical principles in the talmudic literature, see Menachem Elon, *Jewish Law: History, Sources, Principles* (3rd ed.; 3 vols.; Jerusalem: Magnes, 1997) 1:243–56 (Hebrew).

²⁷ In the debate between al-Nazzām and Menasheh, the term "rational" is not mentioned, but rather, only the term "the proof of hearing" (حجة السمع). However, the distinction in the position attributed to al-Nazzām is close (even if it is not identical) to the Mu'tazilite distinction between the two kinds of commandments. In Qirqisānī's time, Ananites and Karaites could have been familiar with the Mu'tazilite distinction and its typical terms—"rational" and "auditory"; see Aviram Ravitsky, "Sa'adya Ga'on and Ya'qub al-Qirqisānī on the Logical Structure of the Rational and Traditional Laws: Logic and Kalām in the Karaite-Rabbanite Controversy," *Tarbiṣ* 84 (2016) 159–93, at 172, 174–75, 192 (Hebrew), and see below.

²⁸ For Qirqisānī's familiarity with doctrines of al-Nazzām, see Haggai Ben-Shammai, "The Doctrine of Religious Thought of Abu Yusuf Ya'qub al-Qirqisani and Yefet ben 'Eli" (PhD diss.;

counterargument to the Jew, the Muslim scholar distinguishes between eternally valid commandments and commandments that may change. Qirqisānī adopts this distinction. But while the Muslim scholar uses this distinction in order to allow for the eternal morality held by his Jewish opponent, and at the same time to maintain the particular validity of Islam, Qirqisānī uses a similar distinction with regard to the past. According to him, the rational commandments are indeed ancient and were known to Adam—in this the Ananites and Karaites were right. But the revealed-auditory-particularistic commandments are relative and may change over time, according to changing circumstances—and in this regard one must adhere to the plain and clear meaning of the Scriptures.

■ The Accumulation Position

Qirqisānī describes two different versions of Karaite positions on the issue of the antiquity of the commandments and the possibility of their abolition, he himself identifying with the second one. According to the first version, the commandments accumulated gradually in an ongoing historical process that began with Adam, but, with the giving of the Torah through Moses, this process came to an end and the Torah became eternally fixed, without any possibility of adding to it. This view completely rejects the possibility of the abolition of the commandments (*naskh*) before the Torah of Moses and all the more so after it. The second version—which Qirqisānī supports—is much more complex, as it principally allows for the abolition of commandments, but only in a limited sense that ensures the eternity of the Torah of Moses.

Qirqisānī's position can be explained on the basis of three principles: first, according to Qirqisānī, the Karaites, to whose position he subscribes, hold a position that is “similar to that [of the first group] with regard to their view that not all of the commandments are ancient,”²⁹ and the disagreement between them concerns only the possibility of the abolition of the commandments. To my understanding, this means that these Karaites, like the Karaite group previously described by Qirqisānī, subscribe to the accumulation position.³⁰ Indeed, in Qirqisānī's view there is a theoretical possibility that God will add to the commandments even after the giving of the Torah of Moses. Hence, the prohibition against adding or deducting from the Torah applies to human beings only, and not to God.³¹ As for God, deduction

2 vols.; The Hebrew University, 1977) 1:232 n. 197 (Hebrew). Sa'adya, too, knew the stances of this Mu'tazilite scholar; on al-Nazzām's theory of the leap mentioned by Sa'adya, see Harry A. Wolfson, *Repercussions of the Kalam in Jewish Philosophy* (Cambridge: Harvard University Press, 1979) 165–66; and cf. Aviram Ravitsky, *Logic and Talmudic Methodology: The Application of Aristotelian Logic in the Commentaries on the Methods of Jewish Legal Inference* (Jerusalem: Magnes, 2009) 38 n. 43 (Hebrew).

²⁹ Qirqisānī, *Kitāb al-Anwār*, 2:441.

³⁰ Qirqisānī's approach is summarized already in chapter 51 of the fourth treatise (*ibid.*, 2:438), and cf. *ibid.*, 2:288–90, and Sklare, “Are the Gentiles Obligated,” 334.

³¹ Qirqisānī, *Kitāb al-Anwār*, 2:469.

is inconceivable because the prophets have already promised that the Torah that has been given is eternal. However, addition entails no aspect of abolition. Just as commandments accumulated continuously before the giving of Torah at Sinai, so this process may in principle continue even after it.

Second, commandments that are not eternal but limited to a certain time can be abolished after the passing of this time. The senior status that was first granted to the firstborn and then passed on to the Levites is an example of such a commandment.³² Such commandments are restricted *a parte post*; they are not part of the accumulative corpus that constitutes the Torah of Moses, and they may be abolished when their time passes.³³ The principle that allows Qirqisānī to admit the possibility of the abolition of commandments should be understood in light of his refutation of Islam.³⁴ According to him, the Muslim claim about the Bible is self-contradictory: how could Muhammad express his trust in the Bible, which claims to eternal validity, and at the same time argue that the Bible has been abolished?³⁵ Namely, a commandment may be abolished only if it has not been “eternalized,” but rather has been defined as a temporal commandment from the outset. On the other hand, the commandments of Moses were explicitly defined as being eternal, hence God will never deduct from them, and the Muslim abolition claim must therefore be rejected.

Third, eternal commandments—the validity of which commences at a certain point in time, meaning that they are restricted *a parte ante*—cannot be abolished before the time of their application. According to Qirqisānī, the abolition of a commandment in such a case would not constitute “abolition” (*naskh*) but a “change of mind” (*badāʾ*)—which is inconceivable in connection with God. *Badāʾ* means a change in the circumstances that leads to a change in the divine imperative. Against the proponents of the possibility of a “change of mind,” Qirqisānī argues that the actions of God stem from wisdom and a complete understanding of all present and future circumstances. This being so, it is inconceivable that one of his actions should turn out to be a vain action not serving any purpose.³⁶

³² *Ibid.*, 2:468.

³³ This is how the Muʿtazilites understood the concept of abolition (*naskh*); see Imām al-Ḥaramayn al-Juwaynī, *A Guide to the Conclusive Proofs for the Principles of Belief* (trans. Paul E. Walker; reviewed by Muhammad S. Eissa, Reading, UK: Garnet, 2000) 184. See also Erder, “Early Karaite Conceptions,” 107–9.

³⁴ On Qirqisānī’s polemics against Islam, see Haggai Ben-Shammai, “The Attitude of Some Early Karaites Towards Islam,” in *Studies in Medieval Jewish History and Literature* (ed. Isadore Twersky; Cambridge: Harvard University Press, 1984) 3–40, at 23–30; Adang, *Muslim Writers*, 202–10.

³⁵ See Qirqisānī, *Kitāb al-Anwār*, 2:292–93. For a comparison between the arguments of Qirqisānī and Saʿadya against the abolition claim, see Ben-Shammai, “The Attitude,” 28. On Saʿadya’s arguments against the abolition claim, see Eliezer Schlossberg, “R. Saadia Gaon’s Attitude Towards Islam,” *Daat* 25 (1990) 21–51, at 39–49 (Hebrew); Adang, *Muslim Writers*, 198–202.

³⁶ Also, R. Saʿadya holds that the abolition of a commandment before it has become relevant is impossible, “so that it should not have been [given] in vain.” According to him, the proponents of the possibility of the Torah’s abolition also agree to this. See R. Saʿadya Gaʿon, *ha-Nivḥar be-Emunot u-ve-Deʿot* (ed. and trans. Yosef Qāfih; Jerusalem: Sura; New York: Yeshiva University,

■ Qirqisānī's Critique of the Ananite-Karaite Position

Qirqisānī presents several hypothetical objections of his opponents who hold the antiquity position. One objection clarifies the meaning of the different circumstances in which God may change his commandment: How can God command the observance of one Sabbath and forbid the observance of another Sabbath similar in all its characteristics to the first? Qirqisānī answers that the very fact that these are two different Sabbaths allows for the difference between the commandments that apply to them.

The second objection attempts to examine a situation in which God's command changes in connection to the very same circumstances: is it possible for God to command fasting on a particular day and then command eating on the very day on which he commanded fasting? Qirqisānī's answer is negative, as this would constitute a case of *badā'*. However, a situation of two cases that are similar only in certain respects is possible: God commands fasting on a certain day of the month, e.g. the tenth of Tishrei, and allows eating on a similar date, e.g., the tenth of Heshvan. According to Qirqisānī's argument, it is also possible for God to command a law that should be observed in 2024 and command a different law that should be applied in 2034 (this is the case of *naskh*). Such a case does not exemplify a "change of mind" but reflects the general flux of religious life. Thus, says Qirqisānī, the Torah commanded Aaron to enter the Holy of Holies but forbade this action to others. There is no "change of mind" here but a recognition of the fact that space is not uniform in relation to all human beings. In Qirqisānī's view, religious life recognizes the distinction between times, places, and the rest of life's numerous circumstances.

The thrust of Qirqisānī's position is that religion creates distinctions in the world of the believer. It refers to the multiplicity, diversity, and changes in life, and it imposes different obligations on human beings according to the different circumstances in which they find themselves.³⁷ According to the Mu'tazilite conception of justice reflected in the words of Qirqisānī, God knows what is proper for a person in every set of circumstances (all of which were considered from the beginning) and commands that person accordingly. While the Ananite-Karaite position espouses the universalization of the commandments, Qirqisānī emphasizes their particularization.

1970) 140. For an analysis of his words, see Andrew Rippin, "Sa'adya Gaon and Genesis 22: Aspects of Jewish-Muslim Interaction and Polemic," in *Studies in Islamic and Judaic Traditions* (ed. William M. Brinner and Stephan D. Ricks; Atlanta: Scholars Press, 1986) 33–46, at 40–42. However, in contrast to Qirqisānī, Sa'adya does not characterize such a case as a "change of mind," as opposed to "abolition."

³⁷ A similar point is emphasized by 'Abd al-Jabbar as well. See David E. Sklare, *Samuel ben Hofni Gaon and His Cultural World: Texts and Studies* (Leiden: Brill, 1996) 151, no. 37. The spirit of Qirqisānī's approach finds a modern expression in the study of the phenomenology of religion. See Mircea Eliade, *The Sacred and the Profane: The Nature of Religion* (trans. Willard R. Trask; New York: Harcourt, Brace, 1961) 20, 68.

Qirqisānī delves further into theological issues, including the doctrine of the divine attributes.³⁸ Qirqisānī employs one of the Mu‘tazilite theories of divine attributes, a theory that can be traced back, in its general lines, to Abū al-Hudhayl al-‘Allāf and influenced Jewish and Mu‘tazilite thinkers, contemporaries of Qirqisānī.³⁹ According to this theory, God’s attributes do not express eternal divine realities. For example, God is “wise,” not because he possesses “wisdom,” and God is “able,” not because he possesses “ability.” Rather, God is wise and able because of his essence. From the Mu‘tazilite perspective, a reality existing eternally alongside the divine essence impairs the unity of God,⁴⁰ and hence the proponents of the antiquity position cannot possibly subscribe to the stance according to which an eternal wisdom exists alongside God. Moreover, Qirqisānī views the Torah as God’s speech, but the theory of eternal divine speech is identified by Qirqisānī as Christian, and Jews never admitted a Christian theology, he says.⁴¹ We also have to bear in mind the fact that God’s speech was an issue that stood at the center of a deep theological and political controversy between the Mu‘tazilah (who claimed the Qur’ān to be created), and the traditional Islamic scholars (who claimed the Qur’ān to be eternal).⁴² It seems that, for Qirqisānī, the Ananites and Karaites would not want to be identified with the traditionalists but rather with the Mu‘tazilah. And since, according to Qirqisānī’s position, the only alternative to the conception of essential divine attributes is the conception of divine attributes of action, he argues that the speech of God must necessarily be a divine action, which, like all other divine actions, varies according to changing circumstances.

In a nutshell: it is the tendency to glorify the Torah and grant it eternal existence as the word, or wisdom, of God that ultimately undermines his unity.⁴³

³⁸ Qirqisānī, *Kitāb al-Anwār*, 2:459.

³⁹ On Qirqisānī’s perception of divine attributes, see Ben-Shammai, “Doctrine of Religious Thought,” 1:230–42. On the distinction between essential attributes and attributes of action, see *ibid.*, 1:237–39, 241–42. On the eternity of the speech, see *ibid.*, 1:242–58.

⁴⁰ See Shahrastānī, *Kitāb al-Milal*, 29–30 (trans. Kazi and Flynn, *Muslim Sects*, 41–42), and see Ben-Shammai, “Doctrine of Religious Thought,” 1:233, claiming that the stance of al-Jubā‘ī as described by Shahrastānī is also the position of Qirqisānī. For al-Jubā‘ī’s position on the question of the attributes, see Shahrastānī, *Kitāb al-Milal*, 55–56 (trans. Kazi and Flynn, *Muslim Sects*, 67). On the different Mu‘tazilite doctrines of the attributes and their backgrounds, see Harry A. Wolfson, *The Philosophy of the Kalam* (Cambridge: Harvard University Press, 1976) 112–234.

⁴¹ Qirqisānī’s refutation of the belief in the eternity of the speech was aimed not only at Christians but also at Muslims who claimed the Qur’ān to be eternal—in this context he mentions explicitly Ibn Kullāb and his followers. See Qirqisānī, *Kitāb al-Anwār*, 2:190–192. On this issue, see also Leon Nemoj, “A Tenth Century Criticism of the Doctrine of the Logos (John 1, 1),” *JBL* 64 (1945) 515–29, at 521–29; Wolfson, *Repercussions*, 94–99; Ben-Shammai, “The Attitude,” 24 n. 88.

⁴² Nimrod Hurvitz, “Al-Ma‘mūn (R. 198/813–218/833) and the Miḥna,” in *The Oxford Handbook of Islamic Theology* (ed. Sabine Schmidtke; Oxford: Oxford University Press, 2016) 650–59, at 651–52; van Ess, *Theology*, 3:305–8, 443–47. On the different positions on the issue in the context of the discussions of the Mu‘tazilite ‘Abd al-Jabbār, see Jan R. T. M. Peters, *God’s Created Speech: A Study in the Speculative Theology of the Mu‘tazilī Qādī l-Qūdat Abū l-Ḥasan ‘Abd al-Jabbār bn Aḥmad al-Hamadānī* (Leiden: Brill, 1976) 330–84.

⁴³ In a fragment of *Kitāb al-Tawḥīd* of Daniel al-Qūmisī, published by Zucker, al-Qūmisī

Qirqisānī goes on to respond to the Ananite-Karaite position, which implies that all the commandments are rational in the sense that they are all eternal and universal and are not subject to change over time. Qirqisānī, in step with his principal position, does not view the entirety of the commandments as being rational. Some of them are revelatory-auditory, meaning that they are dependent on the circumstances, whether being particularistic (applying to a certain group of people) or even individualistic (applying to a certain person). Qirqisānī makes it clear that only revelatory-auditory commandments can be abolished.⁴⁴

■ Biblical Prooftexts of the Antiquity Position

According to Qirqisānī's presentation of the method of those who support the antiquity position, the fact that the Torah describes pre-Mosaic commandments constitutes sufficient proof for the fact that all the commandments of Moses's law are ancient. Qirqisānī, of course, rejects this reasoning, as it involves a logical fallacy of inferring a general conclusion about all of the commandments from several instances.⁴⁵ In Qirqisānī's logic, the part does not testify about the whole, and necessity cannot be inferred from possibility, principles of inference with which he deals—examining as an example the argument of those who hold the antiquity position—elsewhere in his work.⁴⁶

According to Qirqisānī, the proponents of the antiquity position cited three proofs: the first is the theory of (the proto-Karaite) Benjamin al-Nahāwandī, who claimed that the pre-Mosaic generations received 102 commandments. Benjamin deduced the commandments on the basis of homiletic readings of the Scriptures, dividing the generations in the following way: from Adam to Noah; from Noah to Abraham; from Abraham to Isaac; from Isaac to Jacob; and from Jacob to Moses.⁴⁷ Benjamin seemingly adopts an accumulative understanding of the giving of the commandments—as also understood by Yoram Erder and David Sklare⁴⁸—an understanding that is principally close to Qirqisānī's position. However, it should

rejects the antiquity of the commandments. See Zucker, *Saadya Gaon's Translation*, 481, 483. From the abovementioned surviving fragment, it is difficult to decide what al-Qūmisī's stance on the issue was, but the fact that he conducts a debate on the antiquity position in the framework of a composition dedicated to God's unity may indicate that al-Qūmisī also held that the antiquity position contradicts this belief. For an analysis of al-Qūmisī's attitude toward the antiquity of the commandments, see Erder, "Early Karaite Conceptions," 118–19. David Sklare cast doubt on the attribution of the fragment of *Kitāb al-Tawhīd* to Daniel, raising the possibility that the author might have been Daud al-Qūmisī; see David Sklare, "Mu'tazili Trends in Jewish Theology," *Islāmi İhtimler Dergisi* 12 (2017) 145–78, at 157 n. 42.

⁴⁴ Qirqisānī, *Kitāb al-Anwār*, 2:452.

⁴⁵ *Ibid.*, 2:453.

⁴⁶ *Ibid.*, 2:390–91.

⁴⁷ *Ibid.*, 2:453–58.

⁴⁸ Erder, "Early Karaite Conceptions," 115–18; idem, "First and Second Tithes in the Temple Scroll and in the Book of Jubilees according to Early Karaite Discourse," *Meghillot* 13 (2017) 231–67, at 242–43 (Hebrew); Sklare, "Are the Gentiles Obligated," 335.

be noted that Qirqisānī himself opposed Benjamin's theory and viewed it as an invalid kind of interpretation (as Qirqisānī states: "he [Benjamin] incorporated arguments that are based on invalid interpretation [التأويل]⁴⁹ and distorted exegesis").⁵⁰ Moreover—and this is the heart of the matter—Qirqisānī does not claim that Benjamin himself sets forth an argument concerning the question of the antiquity of the commandments. The essence of Benjamin's exegetical method is a broadening of the possibility of deducing laws from the biblical text—on the basis of pre-Sinaitic events described therein, stories and tales, logic, and even far-fetched interpretations. Neither does Qirqisānī claim that Benjamin's method was used to support the Karaite accumulation position. On the contrary, he claims that it actually served the opposing position—the antiquity position, although only some of the commandments are mentioned explicitly in the verses dealing with the people who lived before the Sinai revelation. From here it may be inferred that Benjamin's position, in itself, does not relate to the question of the antiquity or the accumulation of the commandments at all.

Beyond all this, a comparison between Benjamin's position and the later Karaite positions shows that it is very difficult to determine what exactly Benjamin thought. It can be argued that, according to Benjamin, in each period commandments were accumulatively added but not deducted, and this is the difference between Benjamin's stance and the third position described in the work of Tuvia ben Moshe, *Oṣar Neḥmad*,⁵¹ according to which commandments were given in each period, but they obligated only the people living in it—they were not eternal. On the other hand, it seems that in Benjamin's opinion the Torah of the patriarchs and the Torah of Moses were identical. This is reminiscent of the second approach described in the commentary of Yefet Ben 'Eli on Gen 2:17,⁵² according to which Adam knew all the commandments but was obligated to observe only some of them. The Ananites and Karaites who, according to Qirqisānī, relied on Benjamin probably understood that in his opinion the patriarchs observed the entire Torah of Moses, even though Scripture mentions only some of the commandments given to them. It is puzzling that several opposing positions can be attributed to Benjamin at one and the same time: 1) the commandments were revealed in an accumulative process; 2) the Torah of Moses is an ancient Torah, partly observed by the patriarchs; 3) the first generations observed all the commandments. Thus, it seems that the genuine

⁴⁹ Here, meaning an interpretation that does not adhere to the plain meaning of the words. On *ta'wīl* exegesis, see Ismail Poonawala, "Ta'wīl," *EP* 10:390–92; Haggai Ben-Shammai, "The Tension between Literal Interpretation and Exegetical Freedom: Comparative Observations on Saadia's Method," in *With Reverence for the Word: Medieval Scriptural Exegesis in Judaism, Christianity, and Islam* (ed. Jane Dammen McAuliffe et al.; Oxford: Oxford University Press, 2003) 33–50, at 36–40; Rippin, "Sa'adya Gaon and Genesis 22," 34–36.

⁵⁰ Qirqisānī, *Kitāb al-Anwār*, 2:453.

⁵¹ See Erder, "Early Karaite Conceptions," 117.

⁵² See *ibid.*

position of Benjamin does not touch on the issue of the antiquity or accumulation of the commandments.

From Qirqisānī's comments on Benjamin's list of commandments, it becomes clear that he understood the latter to set forth a kind of "historical" argument: the pre-Mosaic biblical characters observed some commandments. At the same time, it also seems that in Qirqisānī's view the main importance of Benjamin's list of 102 commandments was legal—it constituted a kind of halakic midrash. With regard to some of the commandments in Benjamin's list, Qirqisānī remarks that they were deduced from dual sources (i.e., Benjamin learned the same commandment from several different verses). These remarks should be understood to be of a critical tone, meaning that, considering the legal (and not just historical) status of the list, it is meaningless to deduce the same commandment from several sources.⁵³

Qirqisānī rejects the Ananite-Karaite reliance on Benjamin's list, arguing that even if some commandments preceded Moses, this does not necessarily mean that the entire Torah of Moses is ancient. The most that can be learned from the words of Benjamin is that the entire Torah of Moses might, perhaps, be ancient. However, even this possibility is rejected by Qirqisānī, insofar as in his opinion there are biblical verses that prove the exact opposite—that not all the commandments are ancient.

Another proof Qirqisānī mentions as put forward by the proponents of the antiquity position touches upon Gen 26:5: "Because Abraham listened to My voice and kept My charge, My commandments, My statutes, and My laws."⁵⁴ The proponents claimed that the reference to commandments, statutes, and laws is analogous to what is written regarding Ezra: "And commandments, and statutes, and laws did You command them by the hand of Moses, Your servant" (Neh 9:14), referring to the entire Torah of Moses. Qirqisānī's response is consistent with his rejection of the reliance on Benjamin's method: "We do not reject the possibility that God, may he be exalted and glorified, gave Abraham many commandments, but this does not necessarily include the entire Torah of Moses."⁵⁵

A third proof brought by the proponents of the antiquity position that Qirqisānī discusses is the verse relating to Abraham: ". . . and they will observe the way of God" (Gen 18:19). They claim that this verse should be understood in light of Jer 5:5, in which "the way of God" refers to the entirety of God's commandments. Qirqisānī's response is consistent with his principal stance: "'The way of God' refers to whatever God commanded him, in accordance with the circumstances of that generation and the one who was commanded,"⁵⁶ and not necessarily all the commandments of the Torah of Moses.

⁵³ See appendix below, paragraphs 42, 49, 57, 58.

⁵⁴ On the centrality of this verse for the question of the antiquity of the commandments, see Paz, "Prior to Sinai," 30–49.

⁵⁵ Qirqisānī, *Kitāb al-Anwār*, 2:459.

⁵⁶ *Ibid.*, 2:460.

■ Biblical Prooftexts of Qirqisānī's Position

Qirqisānī argues that Scripture itself proves that the commands of God and the religious norms of previous generations differed from the ones found in the Torah of Moses. These are his proofs:⁵⁷ 1) the sons of Adam must necessarily have married their sisters, seeing that only Adam, Eve, and their offspring lived then. 2) God commanded Abraham to become circumcised at the age of 99 (contrary to the Torah of Moses, which prescribes circumcision at the age of eight days). 3) Jacob married two sisters. 4) Amram, the father of Moses, married his own aunt (Exod 6:20), a marital relationship that would later be prohibited through Moses during Amram's lifetime. 5) The observance of commandments commemorating the exodus from Egypt, such as the Passover offering and dwelling in a Tabernacle (*sukkah*), cannot have preceded the exodus. 6) According to "most of our comrades,"⁵⁸ the commandment of the Sabbath was given in the desert, in the story about the manna, not before that.⁵⁹ 7) There are four commandments concerning which Moses himself states that he does not know what the law is. Thus, these commandments cannot be ancient: the law of one who curses the name of God (Lev 24:12); the law of the man who gathered wood on the Sabbath day (Num 15:32); the law of the one who has become unclean because of a dead body (Num 9:8); and the law of the daughters of Zelophehad (Num 27:5). 8) According to Qirqisānī, the replacement of the firstborn for the Levites (Num 8:18) is "undoubtedly an abolition (نسخ)."⁶⁰ This proves that the possibility of abolition existed before the giving of the Torah through Moses (regarding the time-limited commandments).

■ The Antiquity of the Commandments in Its Broad Context: Summary and Conclusions

Detailed discussions on the antiquity of the commandments, including references to diverse Karaite and proto-Karaite groups, can be found in the commentary of Yefet ben 'Eli on Gen 2:17⁶¹ and 26:5;⁶² in his son's writings—Levi ben Yefet; in *Oṣar Neḥmad* of the eleventh-century Karaite scholar Tuvia ben Moshe; and

⁵⁷ *Ibid.*, 2:460–68.

⁵⁸ *Ibid.*, 2:466.

⁵⁹ *Ibid.* On the question of the antiquity of the commandment to observe the Sabbath, see Moshe Zucker, "Helqo shel R. Sa'dyah Ga'on be-pulmus mi-moḥorat ha-Shabbat," *PAAJR* 20 (1951) 1–26, at 22, 25–26 (Hebrew); *Saadya's Commentary on Genesis* (ed. and trans. Moshe Zucker; New York: Jewish Theological Seminary, 1984) 56, 261.

⁶⁰ Qirqisānī, *Kitāb al-Anwār*, 2:467.

⁶¹ Zucker, *Saadya Gaon's Translation*, 493–98. For corrections of the version of the text published and translated by Zucker and a discussion of the sequel to the fragment under discussion, see Ben-Shammai, "Doctrine of Religious Thought," 1:78–80.

⁶² Brought in *Saadya's Commentary on Genesis* (ed. and trans. Zucker) 427, ed. n. 57. For an additional discussion by Yefet on the subject, see *Judaeo-Arabic Manuscripts in the Firkovitch Collections: Yefet ben 'Eli al-Basri, Commentary on Genesis—A Sample Catalogue* (Haggai Ben-Shammai et al.; Jerusalem: Ben Zvi Institute, 2000) 88; Hebrew translation, *ibid.*, 146.

in a few anonymous Karaite fragments.⁶³ The various approaches to this question are all different shades of the two principal positions discussed by Qirqisānī—the antiquity position and the accumulation position, each one of them entailing different interpretive and polemical implications.⁶⁴ Also, the Rabbanite scholars expressed their opinions on this issue, and they too did not speak with one voice.⁶⁵

It seems that the earliest Karaite source from which one can learn about the discussion on the antiquity of the commandments is the composition of Daniel al-Qūmisī (if indeed the attribution to al-Qūmisī is reliable).⁶⁶ That al-Qūmisī opposed the stance that all the commandments are ancient is evidence that this issue was discussed already in his generation, and perhaps even earlier, in the middle of the ninth century (perhaps by the followers of Anan, as can be inferred from the fact that Qirqisānī attributes the antiquity position to the Ananites; or by another proto-Karaite group before, or at the time of, Daniel). However, it is difficult to know exactly what Daniel's position was on the subject, and even more difficult to know the details of the stance he opposed.

The first known systematic and developed account that has reached us on the question of the antiquity of the commandments is Qirqisānī's, although Sa'adya Ga'on was also aware of the importance of the issue.⁶⁷

It is possible that the words of al-Qūmisī were directed toward a version of the antiquity position. As has been shown, the antiquity position of the Ananites and Karaites, as discussed by Qirqisānī, is a development of an earlier Jewish stance

⁶³ For a discussion of these topics, see Erder, "Early Karaite Conceptions," 109–11, 113–16, 128–34. Additional references to the subject are found in idem, "The Karaites on Commandments," e.g., 288, 296, 301.

⁶⁴ The impression of the positions reviewed by Qirqisānī—the position of the Ananites and Karaites who completely reject the possibility of the Torah's abolition, and the position of the Karaites who concede that time-limited commandments can be abolished—is also evident in the anti-Jewish polemical literature of Muslim scholars (see Adang, *Muslim Writers*, 210–22).

⁶⁵ See, e.g., R. Nissim Ga'on, *Ha-Mafteah le-Man'ulei ha-Talmud* (ed. Jacob Goldenthal; Jerusalem: Makor, 1971) 1a–2a; Judah ha-Levi, *Kitāb al-Radd wa-'l-Dalīl fī 'l-Dīn al-Dhalīl: al-Kitāb al-Khazarī* (ed. David H. Baneth, prepared by Haggai Ben-Shammai; Jerusalem: Magnes and the Israel Academy of Sciences and Humanities, 1977) 23; Abraham Ibn 'Ezra, *Yesod Mora ve-Sod Torah: Annotated Critical Edition* (ed. Joseph Cohen and Uriel Simon; Ramat Gan: Bar Ilan University Press, 2002) 119 (Hebrew); and cf. Simon, "Peshat Exegesis," 182–95.

⁶⁶ See above, n. 43, and see there Sklare's opinion. The outlook of Benjamin al-Nahāwandī is discussed above, and see also below.

⁶⁷ Although, in some cases, Qirqisānī addresses explicitly Sa'adya's stances, in his discussion of the antiquity of the commandments in *Kitāb al-Anwār*, he does not. Sa'adya discusses this subject in his commentary on Genesis, and several paragraphs in his commentary on Exodus and his refutation of the abrogation claim in *Kitāb al-Amānāt wa-al-'Iṭqādāt* (ch. 3) are also relevant to this topic. It is most likely that Sa'adya's biblical commentaries mentioned above preceded *Kitāb al-Anwār*, and it is possible that this is the case also with Sa'adya's *Kitāb al-Amānāt* (the question of the dating of these compositions cannot be discussed here), but nevertheless it seems that Sa'adya's writings on the subject of the antiquity of the commandments had no direct influence on Qirqisānī's *Kitāb al-Anwār*. The complex position of Sa'adya on the issue of the antiquity of the commandments will be dealt with in a separate study.

that was formulated by Menasheh (or Yassā) Ibn Ṣālīh, or other Jews, in the days of the early Muʿtazilah (al-Nazzām died toward the end of the first half of the ninth century). According to this stance, all the commandments are expressions of the divine wisdom. The meaning of the Ananite-Karaite position is that just as the commandments are eternally valid in the future, so they have existed eternally in the past. Hence, it is quite possible that Ananites, or scholars belonging to another proto-Karaite group, developed the antiquity position in the middle, or toward the end, of the ninth century—during the active years of al-Qūmisī. Accordingly, it is quite possible that Ananites and Karaites presented this position in anti-Muslim debates during Qirqisānī’s time.

The position Qirqisānī advocated focuses on the unique, non-universal aspects of the commandments—the relation of the law to the diverse and ever-changing circumstances of life. Qirqisānī’s exegetical integrity does not allow him to base himself on the Ananite-Karaite antiquity position in order to refute the Muslim abolition claim. He bases his position on the distinction between rational and auditory commandments, according to which the rational commandments are eternal, while the auditory commandments may be abolished or changed under certain conditions.

Yoram Erder, who devoted extensive and profound research on the subject of the antiquity of the commandments in Karaite thought, argued that the Karaite positions—both the antiquity position and the accumulation position—rely on ancient sectarian sources, especially the *Damascus Covenant* and the *Book of Jubilees*.⁶⁸ However, both positions can be found in rabbinic literature, and it is not necessary to view the Karaite positions as drawing on sources that are “external” to the midrash and the Talmud. In my opinion, the Ananite-Karaite position can also be viewed as a development of the talmudic-midrashic position: both the talmudic sages and the Ananites and Karaites believed that the commandments preceded the Sinaitic revelation. However, for the most part, the rabbis did not see any reason to extend the antiquity of the commandments beyond the scope of Jewish identity as established by biblical tradition. In their view, the patriarchs kept the Torah, but there was no reason to claim the antiquity of the Torah beyond that. To them, Adam and the descendants of Noah do not belong to the identity circle of the sons of Abraham; hence, the question whether they observed the commandments has no religious significance. The Ananites and the Karaites expanded this midrashic view on the basis of the principal position, already expressed by Jews before them, that the commandments of the Torah are identical with the eternal wisdom of God. They argued that there is no place to “begin” the Torah in historical time, because just as the commandments are eternally valid for all future, so they have been in force eternally in the past. It was their quest for theological consistency and logical soundness that led the Ananites and the Karaites to claim that the commandments were observed already by Adam.

⁶⁸ See Erder, “Early Karaite Conceptions,” 120–27.

However, it is most conceivable that both the Ananite-Karaite antiquity position and the accumulation position supported by Qirqisānī are based on a variety of ancient—sectarian and midrashic-talmudic—sources that express similar positions. The proponents of the Karaite approaches may have adopted the ancient positions and developed them in a systematic-theological way, in the context of the anti-Muslim debate in which they took part.

■ Appendix: The List of the Commandments that Preceded the Torah of Moses, according to Benjamin al-Nahāwandī

In this appendix I will briefly summarize the words of Benjamin cited by Qirqisānī, as they are of interest for understanding the early sectarian methods of interpretation, as well as the way in which the proponents of the antiquity position established their argumentation. The appendix is not meant to exhaust the study of Benjamin's list in terms of its method and sources, as that topic deserves a separate study.

From Qirqisānī's list it is evident that he was aware of Benjamin's general calculation of the ancient commandments—102 in all—but not of its full details. For example, the number of commandments given between the period of Abraham and the period of Isaac is supposed to be 35, but Qirqisānī lists only 18. Also, the list of commandments given between the period of Jacob and the period of Moses is lacking—13 commandments instead of 29. Furthermore, the list from Noah to Abraham seems deficient (see paragraph 28 below). It also seems that at least one of the following lists—from Adam to Noah or from Isaac to Jacob—is deficient.

These are the commandments that, according to Benjamin, preceded the giving of the Torah on Sinai:

1. "Marrying and uniting with a woman." The commandment is learned from the verse: "And be united to his wife, and they will become one flesh" (Gen 2:24). Qirqisānī mentions a group that interpreted this verse by way of *ta'wil* and deduced four prohibitions (prohibitions a–d below) from it. From what is stated below (see paragraph 41), it turns out that these deductions also reflect the position of Benjamin.

2. a. The prohibition against sexual relations with one's mother.

3. b. The prohibition against sexual relations with the wife of one's father (these two prohibitions are learned from the verse: "For this reason a man will leave his father [meaning the wife of his father] and mother [in the same way that he unites with his wife, he is to separate from his mother]"—Gen 2:24).

4. c. The prohibition against sodomy (الزَّوَاطِ —usually homosexual intercourse, but here it might refer to anal sex with a woman—see below).

5. d. The prohibition against celibacy ("and they will become one flesh"—Gen 2:24. Qirqisānī explains that "the man has not truly united with the woman and become one body, until they perform intercourse in the source (מקור)."⁶⁹ This

⁶⁹ As is common with biblical terms, the word מקור also appears in Nemyo's Arabic edition in Hebrew characters.

explanation might refer not only to prohibition number 4 but also to number 3, wherefore اللواط in prohibition 3 means anal sex with a woman, while prohibition 4 refers to ejaculating sperm outside the source, through organs or otherwise. However, according to Benjamin, the prohibition against having anal sex with a woman is learned from another verse; see paragraph 62 and also paragraph 14 below.⁷⁰

6. Qirqisānī notes that according to some—perhaps the abovementioned group, or the proponents of the antiquity position, and perhaps also Benjamin—“be fruitful and multiply” (Gen 1:28) is a commandment. Qirqisānī rejects this stance by arguing that if this was the case, the fish also would be commanded to get offspring (see Gen 1:22)—which is absurd. According to Qirqisānī, this is a blessing and not a commandment.

7. Women must obey men. The commandment is learned from the verse: “Your desire will be for your husband” (Gen 3:16).

8. The prohibition against heeding the woman regarding forbidden acts. The commandment is learned from the verse: “Because you have listened to the voice of your wife” (Gen 3:17). Qirqisānī does not reject these last two interpretations but argues that they are only possible.

9. Qirqisānī mentions the prohibition against eating from the tree of knowledge (Gen 2:17) as an evident prohibition, and it seems that he is presenting Benjamin’s opinion. Qirqisānī notes that this prohibition was limited in time and space.

10. To bring sacrifices from the firstborn and the best portions of sheep and goats. The commandment is learned from the verse: “While Abel brought the best portions of the firstborn of his flock” (Gen 4:4).

11. To wear garments. The commandment is learned from the verse: “Garments of skin and clothed them” (Gen 3:21). Qirqisānī rejects this inference with the words: “This is nonsense.”⁷¹

12. The obligation to pray. The commandment is learned from the verse: “At that time men began to call upon the name of God” (Gen 4:26). According to Qirqisānī, if this interpretation of Benjamin was right (he thinks it is not, as it is based on a broadening of the *ta’wīl* method), the obligation to pray began with Enosh the son of Seth and not before that.⁷²

⁷⁰ Qirqisānī argues that, according to the method of the members of this group, this verse may also teach about the prohibitions against prostitution, sodomy (اللواط), and cohabitation with an animal. According to Qirqisānī, these three prohibitions are learned from the words “and be united to his wife”—meaning to his wife only and not to anyone else. From this, it appears that اللواط here means male intercourse, and in any case it seems to be a different prohibition from the one in paragraph 3, as otherwise it is not clear what Qirqisānī adds to the words of the members of the group.

⁷¹ Qirqisānī, *Kitāb al-Anwār*, 2:455.

⁷² It seems that, according to Qirqisānī, the obligation to pray already applied to Adam, due to its being a rational commandment. See *ibid.*, 2:442, 452, and see above, next to n. 18.

13. To walk in the path of obedience to God. The commandment is learned from the verse: “Enoch walked with God” (Gen 5:22). Qirqisānī here argues that this obligation is necessitated by reason (يُعلم ضرورةً)⁷³ and in no need of a specific command.

14. The prohibition against “spilling sperm (إلقاء البذر) on the ground.”⁷⁴ The prohibition is learned from the verse: “For all living creatures on the earth had corrupted their ways” (Gen 6:12). Also, here, Qirqisānī argues that Benjamin’s interpretation constitutes *ta’wīl*, and that this is not a specific command, since “every act of rebellion is a corruption of one’s way.”⁷⁵

15. The prohibition against murder. The prohibition is learned from the story about Cain and Abel. Qirqisānī of course agrees that one is forbidden to murder, but he claims that this prohibition is learned “from reason” (من الفطن), or “from an auditory commandment” (من الأمر سماعاً).⁷⁶

16. Admitting guilt. The commandment is learned from the verse: “My guilt is greater than I can bear” (Gen 4:13).

These were the commandments that, according to Benjamin, were given between Adam and Noah. Following is a list of 14 commandments that were given between Noah and Abraham.

17. Bringing sacrifices from the ritually clean animals. The commandment is learned from the verse: “And he took from every kind of clean animal” (Gen 8:20).

18. Separating the clean from the unclean before entering the ark. On this, Qirqisānī comments that even though this separation is mentioned only in the story about Noah, it may possibly be an ancient command that was in force already at the time of Adam.

19. The permission to eat clean creeping animals. The commandment is learned from the verse: “Every creeping animal that is חי (lit., lives) will be food for you” (Gen 9:3), חי explained as meaning “ritually clean.”⁷⁷

20. The prohibition against eating the limb of a living animal. The prohibition is learned from the verse: “You must not eat meat with its lifeblood still in it” (Gen 9:4).

21. The prohibition against eating blood. It is learned from the same verse.

22. The prohibition against eating an animal that has been torn by a beast. The prohibition is also learned from that same verse. Qirqisānī agrees with Benjamin’s opinion on the commandments that are learned from Gen. 9:4 (20, 21, 22).

⁷³ Ibid., 2:455. On “necessity” as the source for knowledge of the commandments in Qirqisānī, see Aviram Ravitsky, “Logic and Karaite Legal Methodology: Hebrew Translation of Qirqisānī’s *Kitāb al-Anwār wa al-Marāqib*, section 4, chapters 1–8 with Introduction and Critical Notes,” *AJSR* 41 (2017) 1–32, at 3–7, 17–19 (Hebrew).

⁷⁴ Qirqisānī, *Kitāb al-Anwār*, 2:455.

⁷⁵ Ibid.

⁷⁶ Ibid. The auditory verses that, according to Qirqisānī, teach about this prohibition seem to be “you shall not murder” (Exod 20:13) or “whoever sheds the blood of man, by man his blood will be shed” (Gen 9:6).

⁷⁷ And see Zucker, *Saadya Gaon’s Translation*, 448–51.

23. The obligation to build an altar to God. Qirqisānī agrees, without mentioning the source for this obligation, which must be the verse: “Then Noah built an altar to God” (Gen 8:20).

24. The prohibition against becoming drunk. Qirqisānī does not mention the source, which must be the verse: “When he drank some of its wine, he became drunk” (Gen 9:21).

25. The prohibition against becoming haughty in times of tranquility and welfare. The prohibition is learned from the verse: “Sodom [your sister]⁷⁸ arrogant and overfed” (Ezek 16:49).

26. The obligation to help the weak.

27. Strengthening the hands of the weak.

28. Condemning oppression. These previous three obligations are learned from the verse: “She did not strengthen the hand of the poor and needy” (Ezek 16:49).⁷⁹

29. The prohibition against seeing the nakedness of one’s father. The prohibition is learned from the verse: “Cursed be Canaan” (Gen 9:25).

30. The prohibition against oppression. The prohibition is learned from the verse: “The earth is full of violence” (Gen 6:13).

These were the commandments that were given from Noah to Abraham. Following is a list of 35 commandments given in the period between Abraham and Isaac.

31. The prohibition against living in the land of “the rebellious people” (أرض العصاة).⁸⁰ Qirqisānī mentions this and the following commandment together, noting as a source only the verse in Gen 24:3 (see 32 below). However, these seem to be two separate commandments, and the source of the present commandment seems to be Gen 24:6: “Beware not to take my son back there.”

32. The prohibition against marrying “the rebellious people.” The prohibition is learned from the verse: “Do not take a wife for my son from the daughters of Canaan” (Gen 24:3).

⁷⁸ The parentheses are found in Nemoj’s edition.

⁷⁹ Admittedly, apart from the fact that the source of the last three commandments is one, it is not clear how they differ from one another. I have counted them as separate commandments in order to arrive at the number fourteen, but it is possible that they should be counted as a single commandment and that the list of commandments from Noah to Abraham is incomplete. Nemoj raises the possibility that the paragraph dealing with commandments 25–28 is an interpolation (Qirqisānī, *Kitāb al-Anwār*, 2:456 n. 1), probably because commandments 24 and 29 are learned from the same story about the drunkenness of Noah and the deeds of his sons in Genesis, and commandments 25–28 seem to interrupt the interpretive sequence. However, even if it is an interpolation, it may well reflect the position of Benjamin, since the verse in Ezekiel speaks of the guilt of Sodom and its evil ways before Abraham’s arrival there, that is, in the period between Noah and Abraham. Also, it is clear that these commandments are part of the fourteen commandments that Benjamin enumerated as belonging to the period between Noah and Abraham.

⁸⁰ Qirqisānī, *Kitāb al-Anwār*, 2:456.

33. Circumcision. Qirqisānī does not note the source of this commandment, which clearly seems to be the Scriptures recounting the circumcision of Abraham (Gen 17:10–14, 23–27).

34. The prohibition against marrying the uncircumcised. The prohibition is learned from the verse: “To give our sister to an uncircumcised man” (Gen 34:14)⁸¹.

35. Building a place of prayer: “And he called thereon the name of God” (Gen 12:8).

36. The slaves’ obligation to obey their masters: “Return to your mistress and submit to her authority” (Gen 16:9).

37. Slaves are forbidden to despise their masters. The prohibition is learned from the verse: “And she despised her mistress” (Gen 16:4).

38. To stand before the Creator in the morning. The commandment is learned from the verse: “Abraham got up early in the morning” (Gen 19:27). Qirqisānī comments that this is a *ta’wīl* interpretation, and he seems to disagree with it.

39. Giving tithes to the priest: “And he gave him a tenth of everything” (Gen 14:20), “and he was a priest to God Most High” (Gen 18).

40. The prohibition against sexual relations with another man’s wife. It is learned from the verse: “For she is a married woman” (Gen 20:3).

41. The prohibition against sexual relations with one’s daughter, “from the story about Lot,”⁸² related in Gen 19:32–35.

42. The prohibition against having sexual relations with one’s mother—as can be inferred from the story about Lot and his daughters. That is to say, the prohibition regarding a daughter is understood broadly as relating to parent-child relations, wherefore it includes mother-son relations too. Qirqisānī notes that this prohibition is learned already from Gen 2:24 (paragraph 1 above), but there it is deduced by way of (erroneous) *ta’wīl* and here through a true interpretation (شرح),⁸³ and it is clear from his words that the prohibitions learned from Gen 2:24 reflect Benjamin’s opinion.⁸⁴

43. To enforce righteousness and justice: “For I have chosen him, that he may command his children . . . to do righteousness and justice” (Gen 18:19), and also: “Walk before me and be blameless” (Gen 17:1). Qirqisānī rejects this interpretation, arguing that no obligation whatsoever can be learned from this verse, which, in his opinion, relates to circumcision.⁸⁵

⁸¹ Nemoy comments that this seems to be an interpolation (ibid., 2:456 n. 1), presumably because the verse relates to the sons of Jacob, although we are dealing with commandments in force between Abraham and Isaac. It is possible that since this is a commandment that is annexed to the commandment of circumcision, Benjamin believed that it had been practiced since the time of Abraham but was only recounted in the context of the deed of the sons of Jacob.

⁸² Ibid., 2:457.

⁸³ Ibid.

⁸⁴ From the words of Qirqisānī, *Kitāb al-Anwār*, 2:464, paragraph 7, it appears that he accepts prohibitions 40, 41, and 42 as true interpretations of the Scriptures, and that in his opinion these three prohibitions also preceded Moses’s law.

⁸⁵ Regarding Gen 18:19, see above, near n. 56.

44. An oath must be taken in the name of God. The commandment is learned from the verse: “I will swear” (Gen 21:24).

45. Making slaves take an oath. Qirqisānī does not explain what is meant, but it seems that the intention is that the oath of the slave must also be in the name of God. The source of this law seems to be Gen 24:3: “And I will have you swear by the Lord, the God of heaven and the God of earth.”

46. The obligation to bury the dead: “So that I can bury my dead” (Gen 23:4).

47. Eulogizing and weeping for the dead, from the verse: “To eulogize Sarah and to weep for her” (Gen 23:2). Qirqisānī comments that it is possible that this is not really a commandment but something that is inherent in human nature: the grief over the loss of the loved ones.

48. Giving gifts to one’s children, from the verse: “Abraham gave gifts to the sons of his concubines” (Gen 25:6).

Henceforth, the commandments between Isaac and Jacob (Qirqisānī does not state their number:

49. Benjamin counts the verse “and Isaac went out לָשׂוּחַ in the field” (Gen 24:63) as a commandment, but according to Qirqisānī, he does not explain its nature. Qirqisānī presents four different opinions as to the meaning of the expression לָשׂוּחַ. Some say, prayer; “If so,” he remarks, “prayer has already been mentioned”⁸⁶—see above, paragraph 12. Some say, cleaning himself following seminal emission; while others say, strolling; and still others say, gathering wormwood.

The 29 commandments between Jacob and Moses are as follows:

50. To fulfill vows: “Then Jacob made a vow” (Gen 28:20).

51. The prohibition against cheating: “But your father cheated me” (Gen 31:6).

52. The prohibition against swindling friends and breaching promises:⁸⁷ “Why have you deceived me” (Gen 29:25).

53. Determining the time of menstrual impurity: “For I am having my period” (Gen 31:35).

54. The prohibition against touching a vessel used for idol worship and to purify oneself in them: “Get rid of the foreign gods” (Gen 35:2).

55. Granting a dowry in connection with marriage: “Demand a high dowry and an expensive gift” (Gen 34:12).

56. The levirate marriage. Qirqisānī does not note the source of this commandment, which seems to be the story about Judah and Tamar (Gen 38:26).

57. The prohibition against murder, from the verse: “And they plotted to kill him” (Gen 37:18). Qirqisānī comments that this has already been learned from the story about Cain and Abel—see paragraph 15 above.

⁸⁶ Qirqisānī, *Kitāb al-Anwār*, 2:457. From this comment we learn that, according to Qirqisānī, Benjamin’s list is not merely “historical” but also “legal,” meaning that not only does it claim that the pre-Mosaic biblical characters observed certain commandments, but it also teaches about the sources from which the commandments are learned. Hence, it is illogical to learn the same commandment from more than one source. See also paragraphs 42, 57, 58.

⁸⁷ *Ibid.*, 2:457.

58. The prohibition against sexual relations with the wife of one's father, from the verse: "And he slept with Bilhah" (Gen 35:22). Qirqisānī comments that this is a true interpretation (شرح), unlike the commandment deduced earlier on by way of (erroneous) *ta'wīl*,⁸⁸ on the basis of Gen 2:24—see paragraph 3 above.

59. Burning the adulteress: "Bring her out and let her be burned" (Gen 38:24).

60. The double inheritance of the firstborn: "Sell me now your birthright" (Gen 25:31).

61. The prohibition against eating the thigh tendon. Qirqisānī does not note the source of this commandment, which obviously is learned from Gen 32:33.

62. The prohibition against anal sex with a woman. The prohibition is learned from the verse: "Whenever he would sleep with his brother's wife, he would spill his seed on the ground" (Gen 38:9).

⁸⁸ Ibid., 2:458.