

The Age of Legal Maturity in Biblical Law

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Many Biblical laws provide a penalty for the person who violates that law.¹ However, the Bible nowhere indicates legal age, *legitima aetas*, at which the law transgressor is subject to punishment.²

Lev. 27:1–8 is the only Biblical source that divides a person's life into various periods indicating the age limits of each stage. This passage, which informs us of the monetary values by which a person who has been dedicated to God can be redeemed, divides a human life into four periods: from the first month till the age of five; from age five till the age of twenty; from age twenty till the age of sixty; and from age sixty on. A different monetary evaluation is prescribed in the case of the redemption of the female, but the age limits of the four periods remain the same.

The monetary values were set in accordance with the potential work capacity of the dedicated person.³ Inasmuch as this source does not provide any specific information regarding the age of legal capacity of the individual, it cannot be directly applied to solving the problem of the existence of *legitima aetas* in Biblical law.

From various verses in the Bible it is possible to conclude that the life of a person was divided into three phases. The first period is that of childhood, when the child is referred to by such terms as *yōnēq*, *ṭāp*, *ōlēl*, *na^car*, and *na^carāh*. In the second period the male is referred to as *bāhūr* and the female as *betūlāh*. These terms apparently define the periods from the beginning of maturity until the time of full maturity. Terms like *ʾiš*, *ʾiššāh*, *zāqēn*, and *ʾiš šēbāh* mark the third period, which begins with full maturity and continues through old age.⁴ However, we cannot

1. E.g., Exod. 21:12, 14, 15, 16, and many other examples.

2. It should be noted here that Marcus has shown from various Biblical and ancient Near Eastern sources that a minor was punished with great severity for criminal behavior and that at times such punishment was more severe than that of an adult. This rule applies particularly in the case of misconduct towards parents; D. Marcus, "Juvenile Delinquency in the Bible and the Ancient Near East," *JANES* 13 (1981), 31–52. Marcus' conclusion does not eliminate the need for an examination of the question of the age of legal maturity. It is entirely possible, because of the patriarchal character of the family in Israel and the ancient Near East, that a child was punished in these specific cases even before reaching the age of maturity. The sources to which Marcus refers are thus exceptional and do not decide the age of legal maturity in Israel.

3. M. Noth, *Leviticus, OTL* (London, 1965), 204–5; G. J. Wenham, *The Book of Leviticus*, New International Commentary (London, 1979), 338.

4. For the verses involved and discussion, see H. W. Wolff, *Anthropology of the Old Testament* (London, 1974), 120–21.

deduce from these terms (and others that mark various stages of physical and sexual development) any specific information concerning the age of legal capacity.⁵

The essential problem is thus: *Does the lack of evidence concerning the age at which a person may be punished indicate that Biblical law does not distinguish legally between a minor and an adult?* Are we forced to conclude that Biblical law does not ascribe any legal significance to natural biological and intellectual limitations of childhood and so resulting in the rather absurd generalization that all transgressors must be punished?⁶

The solution of this problem has great importance for the understanding of the basic principles of Biblical theology and Israelite civil and criminal Law.⁷ We will try to show that Biblical laws—excluding those dealing with the transgressions against parental authority—consider only mature persons as punishable under the law.⁸ It will, furthermore, be contended that according to Biblical law, a person arrives at *plena pubertas*, full legal capacity, in two stages: (1) about the end of the first quarter of the second decade of one's life, a child acquires a limited legal capacity that depends on chronological age and the appearance of certain biological-sexual characteristics. (2) At the beginning of the third decade of life, a person is considered an adult with full legal capacity.

The age of twenty as the age of adulthood finds expression in the fact that only people twenty years and older pay the half shekel,⁹ are counted in the census,¹⁰ and are defined as those going to the army.¹¹ The Levites also begin to work in the sanctuary at this age.¹² From all of these data it appears that the age of twenty is the legal age from which time on a person is considered to be an adult who is responsible for one's actions.

Brin¹³ has suggested that one can infer from the story of the spies in Numbers 14 and 32:11, and on the basis of Deut. 1:39, not only that the age of a person is a definitive factor as regards legal liability but also that the age of twenty is the age of legal responsibility.¹⁴ The complaint of the people, and particularly the cry

5. For the characteristics of the various ages, see Wolff, *Anthropology*, 121–25; J. L. Crenshaw, "Youth and Old Age in Qoheleth," *HAR* 10 (1986), 2–3.

6. For the socio-legal importance of the distinction between minor and adult in primitive societies, see, e.g., E. Hoebel, *The Law of Primitive Man: A Study in Comparative Legal Dynamics* (Cambridge, Mass., 1954), 324–28. For the importance of this distinction in the ancient Near East, see M. T. Roth, "Age of Marriage and the Household: A Study of Neo-Babylonian and Neo-Assyrian Forms," *Comparative Studies in Society and History* 29 (1987), 715–47.

7. See, e.g., A. Phillips, *Ancient Israel's Criminal Law* (Oxford, 1970), 14–15.

8. See n. 2 above.

9. Exod. 30:13–14; 38:26.

10. Num. 1:2–3, 18; 1 Chr. 27:23; 2 Chr. 25:5.

11. E.g., Num. 1:22.

12. Ezra 3:8; 1 Chr. 23:24, 27. According to Num. 4:3, 23, et al., the Levites began their duties at age 25. But according to Num. 8:24 they began their service at 30 years of age.

13. G. Brin, "The Formula From . . . and Onwards/Upward 'והלאה / וזמעה . . . מ,'" *JBL* 99 (1980), 170–71.

14. I reached this conclusion independently in my Master's Thesis; see Joseph Fleishman, "Legal Aspects in Parent-Child Relationships in the Bible and the Ancient Near East" (M.A. Thesis, Bar-Ilan University, Ramat-Gan, Israel, 1981), 49–51.

"It would be better to go back to Egypt . . . Let us head back to Egypt" (Num. 14:3-4), was understood by Joshua, Caleb, Moses as well as by God Himself as a revolt against Him.¹⁵ In response, the Lord decided to annihilate the entire congregation of Israel. Although Moses succeeded in averting this disaster, the Lord did not fully forgive the people but rather decreed that, "in this very wilderness shall your carcasses drop. All of you who were recorded in your various *lists from the age of twenty years* up you who mutter against me . . . your children, who you said would be carried off—these will I allow to enter; they shall know the land you have rejected" (Num. 14:29, 31). According to these verses only those twenty years and older (who, because of their age, were counted in the census) were subject to the legal obligation of loyalty to God and were therefore punished because of their rebellion against Him.¹⁶ All those under the age of twenty are labelled as *ṭap*, "little ones" (namely, young children who today would be defined as minors) and were not punished.¹⁷ They may enter the land despite the fact that they, too, were almost certainly among the complainers, rebelling against God.

The age of twenty thus constitutes the age of legal maturity. This is the age that is decisive for the punishment of those who rebelled against God. Those twenty years and older were those "who did not remain loyal to me" (Num. 32:11), and were therefore doomed to perish in the desert.

There is no explanation in Numbers 14 as to why twenty was chosen as the age at which a person is considered liable for one's deeds. From Deut. 1:39, however, it is possible to deduce that at this age a child was considered to have reached full intellectual maturity. In his address in this chapter Moses says: "Moreover, your little ones, who you said would be carried off, your children who do not yet know good from bad—they shall enter it; and to them will I give it, and they shall possess it." This verse, which reflects the same tradition as that of Numbers 14,¹⁸ does not specifically mention the age of those who were not held responsible for the sin of the spies. Instead, it defines the spiritual-intellectual capacity of those who are under the age of twenty. According to this verse, those under the age of twenty were not punished for sinning because they "do not yet know good from bad." They were those whom we would define once again as minors. They lack the knowledge that enables an adult to distinguish between good and bad. Therefore, even if they participated actively in the rebellion against God, they were not considered liable.¹⁹

15. By Joshua and Caleb in Num. 14:9; by Moses in Num. 14:43; and by God in Num. 5:32. G. B. Gray *Numbers*, ICC (Edinburgh, 1903), 155; M. Noth, *Numbers*, OTL (London, 1968), 109; cf. Brin, "Formula," 170.

16. It would appear that the tribe of Levi was not included in the punishment because they were not counted in the census with the rest of Israel; see A. H. McNeile, *The Book of Numbers* (Cambridge, 1911), 77.

17. In this and other verses, the word *ṭap* is not to be understood to refer to babies but rather to young children; see C. Locher, "ṭap," *TDOT*, 5:349; cf. also, e.g., J. Sturdy, *Numbers* (Cambridge, 1976), 105; and Brin, "Formula," 171.

18. See, e.g., S. R. Driver, *Deuteronomy*, ICC (Edinburgh, 1895), 28; J. Jensen, "The Age of Immanuel," *CBQ* 41 (1979), 224-25.

19. Cf. Brin, "Formula," 170-71.

Thus from Numbers 14 we learn that the age of legal maturity is twenty, while Deut. 1:39 (which describes the same incident) provides a basis for determining this age. At the age of twenty, a person is considered an adult by virtue of the knowledge one is supposed to possess for distinguishing between "good and bad";²⁰ that is to say, to make morally responsible judgments.²¹

As a result of an examination of both sources of the story of the spies (in Numbers 14 and Deut. 1:39), it is possible to deduce that: (1) the definition of a person as a rebel against God, i.e., a criminal, depends on one's "knowing of good and bad"; and (2) the rebels are all people above the age of twenty who "know good and bad."²²

The age of twenty is also the age of full legal maturity according to the Dead Sea Scrolls. Thus we read in *Serakh Hā'ēdāh* (Rule of the Congregation):

And this is the rule for all the hosts of the congregation, concerning every native of Israel. From [his] you[th] [he shall] be instructed in the Book of Meditation and shall be taught the precepts of the covenant in their accordance with his age, and [shall receive] his [edu]cation in their ordinance for ten years. [And] (should) he progress well, at twenty years of ag[e he will pass over to] those who are numbered to enter into full status along with his fa[mily] to join the holy congregation. But he will not [approach] unto a woman to have sexual intercourse unless he is twenty years old when he will know [good] and evil. And he shall be received to testify in accordance with the laws of the Torah and to take his place in hearing the judgments. (IQSa 6–11 col. 1)

According to this text the rights of a twenty-year-old who is identified as "one who knows good and evil" are: (1) to be counted with the adults;²³ (2) to marry; (3) to testify or to be judged;²⁴ (4) to be present at the rituals of learning the law.²⁵ One can thus conclude that the age of twenty is the age of full legal matu-

20. It is to be noted that the Septuagint translates Num. 32:11, which mentions the incident of the spies, "Surely these men who came up out of Egypt from twenty years old and upward, who knew good and bad, shall not see the land which I swore. . . ." The words "who knew good and bad" do not appear in the Masoretic version and were apparently added in the Septuagint under the influence of Deut. 1:39.

21. According to R. Gordis, "to know good and bad" indicates sexual maturity and not intellectual maturity; "The Knowledge of Good and Evil in the Old Testament and the Qumran Scrolls," *JBL* 76 (1957), 123–28. This view was convincingly refuted by H. S. Stern, "The Knowledge of Good and Evil," *VT* 8 (1958), 414–15.

22. According to A. B. Ehrlich, the generation of the desert became knowledgeable at the age of twenty because their ancestors were slaves in Egypt so many years that their bodies were weak. They did not come to the knowledge of good and bad earlier because this knowledge depends on the strength and health of the body; *Mikrā Ki-Pheschutō* (Berlin, 1899), 1:312 [in Hebrew]. This view is unacceptable because in Biblical law the age of twenty plays a very important role in the life of the people in his land; see further below.

23. Also according to 4Q Ordinances 2:6–9, only at twenty is a person counted for the first time and pays the half-shekel, and that only this one time.

24. According to CD 9:23–10:3, a person is allowed to testify only from the age of twenty.

25. For this interpretation of the rights of the twenty-year-old, see J. Licht, *The Rule Scroll, A Scroll from the Wilderness of Judea IQS, IQSa, IQSb. Text, Introduction and Commentary* (Jerusalem, 1965), 253–54 [in Hebrew]; J. M. Baumgarten, *Studies in Qumran Law* (Leiden, 1977), 185–86; L. H. Schiffman, *Sectarian Law in the Dead Sea Scrolls Courts, Testimony and the Penal Code* (Chico, CA, 1983), 56. According to Schiffman, the fourth right is to vote in the sectarian assembly.

rity and that from that time on a person is accounted as an adult and a full member of the congregation.²⁶

It is thus possible to conclude that this source continues the Biblical legal tradition that twenty is the age of *plena pubertas*, full legal capacity. According to Jewish law (rabbinic law), the legal age begins before the age of twenty, but full legal maturity is achieved only at that age.²⁷

The expressions to understand/know/hear good and bad are mentioned in the Bible in various connections.²⁸ But in two passages—the dream of Solomon at Gibeon (1 Kgs. 3:5–14) and Isaiah’s prophecy concerning Immanuel (Isa. 7:14–17)—they define the intellectual capacity of a mature child whose age is not mentioned. This capacity the minor has not yet obtained. The meaning of the expression in these passages will now be examined.

When God revealed himself to Solomon in a dream at Gibeon, He asked, “Ask, what shall I grant you?” (1 Kgs. 3:5). Solomon, in beginning his answer, praises God for the kindness He has shown to David by granting the kingship to Solomon. Solomon then says:

And now, O Lord my God, You have made Your servant king in place of my father David; but I am a young lad, with no experience in leadership (lit., I do not know how to go out and come in). Your servant finds himself in the midst of the people You have chosen, a people too numerous to be numbered or counted. Grant, then, Your servant an understanding mind to judge Your people, to distinguish between good and bad; for who can judge this vast people of Yours? (1 Kgs. 3:7–9)

Solomon’s answer is favorably received by God who says, “Because you asked for this—you did not ask for long life, you did not ask for riches, you did not ask for the life of your enemies, but you asked for discernment in dispensing justice—I now do as you have spoken, I grant you a wise and discerning mind; there has never been anyone like you before, nor will anyone like you rise again” (1 Kgs. 3:11–12). God also promises him wealth, honor, and long life (13–14).

At the beginning Solomon calls himself a “young lad,” who has no experience of leadership, lit., who does not know how “to go out and come in.” The actual age of Solomon when he became king is a matter of dispute among scholars. There are those who maintain that Solomon was an adult but due to modesty referred to himself as a “young lad.”²⁹ Others are of the opinion that Solomon was a minor at the time.³⁰ However, without taking a stand on the matter, it is possible

26. H. N. Richardson, “Some Notes on IQSa,” *JBL* 76 (1957), 120; L. Ginzberg, *An Unknown Jewish Sect* (Ktav repr.: New York, 1976), 45–46; Schiffman, *Sectarian Law*, 57–59. According to Jub. 49:17 and the Temple Scroll 17:8, only those above the age of twenty were obligated to bring the Paschal sacrifice.

27. See below.

28. For the phrase “to know good and bad,” see Gen. 2:9, 17; 3:5, 22; 2 Sam. 19:36; Isa. 7:16. For the phrase “to understand good and bad,” see 1 Kgs. 3:9. For the phrase “to hear good and bad,” see 2 Sam. 14:17.

29. J. A. Montgomery, *Kings, ICC* (Edinburgh, 1951), 107–8; J. Gray, *1 & 2 Kings, OTL* (London, 1964), 122, 125–26.

30. This is the opinion of medieval commentators such as Rashi and Kimḥi as well as some modern scholars such as S. Zalevsky, *Solomon’s Ascension to the Throne* (Jerusalem, 1981), 183.

to deduce from these verses the intellectual qualities that the minor lacks: (1) he does not know how to go out and come in, i.e., he lacks experience and other qualities that are necessary for one to lead one's people.³¹ (2) He has no understanding mind (lit., hearing heart),³² i.e., he cannot differentiate between good and bad and so is unable to fulfill the task of a judge.³³

Scholars differ as to the nature of the wisdom Solomon requested. There are those who maintain that he asked for judicial wisdom.³⁴ According to others, he asked for wisdom in general.³⁵ But even if Solomon asked only for judicial wisdom, this wisdom serves as the basic and most important foundation stone of general wisdom. The presence of judicial wisdom guarantees the proper running of the country even in those spheres that are not judicial.³⁶

The intellectual ability to choose the right path also serves as the criterion to differentiate a minor from an adult in the prophecy of Isa. 7:14–17. Isaiah tries to persuade Ahaz, king of Judah, not to be terrified of Pekah son of Remaliah, king of Israel, and of Rezin, king of Aram, who plan to attack him.³⁷ Ahaz rejects the advice of Isaiah. He turns to the king of Assyria and asks his help in the war against the Israelite-Aramean coalition. As a result of Ahaz's behavior, Isaiah predicts disaster for Judah and the House of David. In his prophecy the fate of Judah is described against the background of the child, Immanuel: "By the time he learns to reject the bad and choose the good people will be feeding on curds and honey. For before the lad knows to reject the bad and choose the good the ground of those two kings you dread shall be abandoned" (Isa. 7:15–16).

In this prophecy Isaiah predicts that Judah will be abandoned in the near future because of an Assyrian invasion. As a result there will be in Judah no food produced agriculturally but only "curds and honey," natural products that can be found even in devastated countries.³⁸ Judah will be abandoned before Immanuel grows up and knows enough "to reject the bad and choose the good."³⁹ These two

31. E. A. Speiser, "Going and Coming at the City Gate," *BASOR* 144 (1956), 183; G. Evans, "'Coming and Going' at the City Gate—A Discussion of Professor Speiser's Paper," *BASOR* 150 (1958), 28–33.

32. It is certain that the idiom *lēb šōmēa*^c, lit. "a heart that hears," is a short form of *lēb šōmēa^c ṭōb warā^c*, an idiom found in 2 Sam. 14:17. Zalevsky showed that this idiom is parallel to the idiom "to understand good and bad," mentioned in the dream of Solomon (1 Kgs. 3:9); *Solomon's Ascension*, 170.

33. Scholars differ as to the meaning of the root *šp* in the narrative of Solomon's dream. Some maintain that it means only "to judge," whereas others ascribe a broader meaning to the root, "to lead." We accept the view of Zalevsky, that in the context of the dream of Solomon, the root means "to judge"; *Solomon's Ascension*, 171–72.

34. M. Weinfeld, *Deuteronomy and the Deuteronomistic School* (Oxford, 1972), 253–55; Zalevsky, *Solomon's Ascension*, 171–72.

35. F. C. Fensham, "Legal Aspects of the Dream of Solomon," *Fourth World Congress of Jewish Studies* (Jerusalem, 1967), 1:67.

36. Zalevsky, *Solomon's Ascension*, 172–75.

37. For the historical background of this war, see S. Yeivin, "The Divided Kingdom: Rehoboam-Ahaz/Jeroboam-Pekah," in A. Malamat, ed., *The World History of the Jewish People—The Age of the Monarchies: Political History* (Jerusalem, 1979), 174–78.

38. O. Kaiser, *Isaiah 1–12, OTL* (London, 1972), 104–5; Jensen, "The Age of Immanuel," 229–30.

39. Jensen, *ibid.*, 223–25, 227, 239. There are scholars who contend that the prophet is referring to a very young age and not to the age of maturity; for bibliography, see Jensen, 221–22.

actions mark not only the ability to differentiate “good” from “bad” but also the intellectual capacity to reject the “bad” and choose the “good.” One can deduce from Isaiah’s words the existence of an accepted distinction between maturity and minority. The key to this differentiation lies in the presence or absence of “knowledge to reject the bad and choose the good,” i.e., the ability to choose the right way. The minor is unable to distinguish good from bad and therefore incapable of choosing the right way. The mature person, whose age is not mentioned in this passage,⁴⁰ is intellectually capable of choosing the proper way.

The terms *ṭōb*, “good,” and *rāʿ*, “bad,” which define the knowledge of an adult are antonyms. The semantic range of “good” includes positive situations such as pleasant, useful, proper, etc.⁴¹ On the other hand, the noun “bad” refers to negative actions and situations that are dangerous, destructive, erroneous, treacherous, rebellious, etc.⁴² These nouns are used in both Mesopotamian and Biblical texts to describe, respectively, proper, as well as improper, behavior in political treaties between persons, and in religious covenants between persons and God.⁴³

The roots *ydʿ* and *byn* in Biblical Hebrew and in Ugaritic form a pair of words that indicate the ability to recognize, to differentiate, to have intellectual capabilities by means of which one can reach decisions and choose one’s course.⁴⁴ The root *ydʿ* also serves as one of the technical terms in the covenantal literature of the Bible and the ancient Near East to indicate the legal recognition of the authority of the overlord and the obligations that rest upon them because of their covenantal relationship.⁴⁵

The meaning of the verbs *ydʿ* and *byn* in the expressions “to know/understand good and bad” is to have the intellectual ability to understand and to be able to differentiate between the two opposites, “good and bad.” Furthermore, inasmuch as “good and bad” indicates two opposites, one who has the knowledge to differentiate between them knows “everything,” that is, possesses the ability to discern between right and wrong.⁴⁶ One can therefore infer that someone who is considered

40. According to Gordis (see n. 21 above), one can infer from this prophecy that already in the Biblical period the age of maturity was thirteen. This tradition was preserved in Jewish law, which provided that from this age the child is obligated to observe the commandments like all adults. It is, however, doubtful if this view can be accepted, for as will be shown below the concept that thirteen years is the age of maturity only evolved in the Amoraic period and not in early Jewish law.

41. I. Hoever-Johag, “טוב *ṭōb*,” *TDOT* 5: 296, 303–16.

42. See, e.g., S. J. DeVries “Evil,” *IDB*, 2: 182–83.

43. W. L. Moran, “A Note on the Treaty Terminology of the Sfire Stelas,” *JNES* 22 (1963), 173–77; M. Weinfeld, “Covenant Terminology in the Ancient Near East and its Influence on the West,” *JAOS* 93 (1973), 190–99; M. Fox, “Ṭob as Covenant Terminology,” *BASOR* 209 (1973), 41–42.

44. I. Avishur, *Stylistic Studies of Word Pairs in Biblical and Ancient Semitic Literatures* (Neukirchen-Vluyn, 1984), 366–67. For a comprehensive examination of the meaning of these roots, see J. A. Emerton, “Consideration of Some Alleged Meanings of ידע in Hebrew,” *JSS* 15 (1970), 145–80; H. Ringgren, “בין; בינ; בינה; Binah,” “בונה; Tebunah,” *TDOT*, 2:99–107, esp. 106–7.

45. H. B. Huffmon, “The Treaty Background of Hebrew YĀDA^c,” *BASOR* 181 (1966), 31–37; idem and S. B. Parker, “A Further Note on The Treaty Background of Hebrew YĀDA^c,” *BASOR* 184 (1966), 36–38; D. J. McCarthy, *Treaty and Covenant: A Study in Form in the Ancient Oriental Documents and in the Old Testament*, rev. ed. (Rome, 1978), 167, n. 22.

46. Word pairs that express opposite ideas indicate the absolute; see H. A. Brongers, “Merismus, Synekdoche, und Hendiadys in der Bibel-Hebräischen Sprache,” *OTS* 14 (1965), 100–14.

“to know good and bad” has the knowledge to make important decisions. The phrase “to know/to understand good and bad” serves, then, as a means by which one can distinguish between the adult and the minor.

In Biblical law the presence or absence of knowledge serves as a criterion for distinguishing between the one who violates the law with intent and the one who acts unintentionally.⁴⁷ The latter is not punished by human judicial authorities. But the one who acts with intent is a criminal who may be punished by a court.⁴⁸ It follows that he who does not have the ability to know “good and bad” nor the capacity to distinguish between them would not be defined as a criminal. Therefore inasmuch as it is only the mature person who is defined as “knowing/understanding good and bad,” only one who has reached maturity can be regarded as one who acts willfully and may accordingly be liable to a penalty.

Since the account of Solomon’s dream and the prophecy of Immanuel do not specify the age of maturity, the only passage from which we may deduce the legal age of adulthood is the narrative of the spies in Numbers 14 and its parallel in Deut. 1:39. In these passages persons of twenty years and older are considered adults who may be liable to punishment since from this age a person is considered “to know good and bad.”

The question, however, remains: is twenty the legal age in all areas and in all matters? Can one conclude, for example, that persons nearing the end of the second decade of life who have committed a criminal offense are not to be punished because they have not reached the age of twenty and so are not considered to be adults?

A major difficulty in accepting the view that twenty is the absolute legal age in Biblical law derives from the character of the *bēt ʿāb* “household,” in Israel and from the nature of the legal relationship between parents and children. First of all, the family is patrilineal and patriarchal with the father having a good deal of legal control over his children.⁴⁹ Second, the solidarity of the various elements of the family, be it extended or nuclear, is one of the basic elements of the social structure of Israel.⁵⁰ Therefore, in order to enable the father to direct the family, the lawgiver was obligated to give the head of the family as well as the relevant judi-

47. Deut. 4:42; 19:4; Josh. 20:3.

48. For the difference between “intent” and “inadvertence” in Biblical and ancient Near Eastern Law, see D. Daube, “Direct and Indirect Causation in Biblical Law,” *VT* 11 (1961), 246–49, esp. 253–54; J. Milgrom, “The Cultic Šegagah and its Influence in Psalms and Job,” *Studies in Cultic Theology and Terminology* (Leiden, 1983), 125; R. Westbrook and C. Wilcke, “The Liability of an Innocent Purchaser of Stolen Goods in Early Mesopotamia,” *AJO* 25 (1974–1977), 111–21; B. S. Jackson, “Liability for Mere Intention in Early Jewish Law,” *HUCA* 42 (1971), 197–207.

49. See, e.g., R. de Vaux, *Ancient Israel: Its Life and Institutions* (London, 1961), 19–21; F. C. Fensham, “Aspects of Family Law in the Covenant Code in the Light of Ancient Near Eastern Parallels,” *Dine Israel* 1 (1969), ix; T. Frymer-Kensky, “Patriarchal Family Relationships and Near Eastern Law,” *BA* 44 (1981), 210. For a survey of the authority of the father in Israel in comparison with the ancient Near East, see J. Fleishman, *Studies Pertaining to the Legal Status of the Child in Israel and in the Ancient Near East* (Ph.D. Diss., Bar-Ilan University, Ramat-Gan, Israel, 1990), 2–32 [in Hebrew with English Abstract].

50. J. Pedersen, *Israel: Its Life and Culture* (Oxford, 1926), 1:50; F. C. Fensham, “Transgression and Penalty in the Book of the Covenant,” *JNSL* 5 (1977) 27, 36; cf. also A. Goetze, *The Laws of Eshnunna*, *AASOR* 31 (1965), 145.

cial authorities, the legal means by which they could impose on children of either sex the proper rules of behavior. In other words, children could be punished would they not accept the authority of their parents, or should they harm them physically.

In order to guard the strength of the *bēt ʿāb* as well as the continuation of normal life, children were expected, as stated in the fifth commandment, to honor their fathers and mothers (Exod. 20:12; Deut. 5:16), that is, to accept their legitimate authority.⁵¹ Whoever strikes or curses one's parents or does not obey them in those areas in which the law obligates a child to obey one's parents is punishable by death.⁵² It does not make sense to assume that a child who committed these crimes just mentioned would not be punished until one reached the age of twenty. These crimes are extremely serious for they endanger the very existence of the *bēt ʿāb* and challenge the basis of society itself.⁵³

This problem requires us to investigate whether from a legal perspective a child is considered to become an adult in stages. In the first stage a child reaches *legitima aetas*, legal capacity, sometime before the age of twenty. At that time one would be considered to be an adult as regards certain specific areas of law whereas at the age of twenty one would be considered to acquire *plena pubertas*, full legal capacity, in all spheres of law.

We will now try to show that according to Biblical law a person reaches the age of legal maturity in the following two stages. (1) Near the end of the first quarter of the second decade of life marks the beginning of *legitima aetas*. From then on a child has some limited legal status or standing. This legal age is determined according to the chronological age together with the appearance of physiological signs of maturity. For males, this means the appearance of body hair, and for female, also the development of breasts. (2) At the onset of the third decade of life, a person is considered to have *plena pubertas* in all things.

Even though there are no explicit statements supporting the above hypothesis, an examination of various Biblical texts that use the verb *gdl*, "to grow," to define the process of maturation show that a child was considered to have the legal capacity to carry out various legal actions, which remain valid even after one has become a grown-up.

The root *gdl* indicates not only the process of a child's development and maturation but also the completion of that period.⁵⁴ This root defines the passage of the child out of the stage of babyhood, when one is no longer a suckling, as well as the passage from childhood to the stage of early manhood.⁵⁵ There is no one text that specifies the

51. R. Albertz, "Hintergrund und Bedeutung des Elterngebots in Dekalog," *ZAW* 90 (1978), 348-76.

52. For a comprehensive analysis of the law of the rebellious son (Deut. 21:18-21) and its links to the law of "cursing his father and mother (Exod. 21:15), see Fleishman, *Studies*, 251-300. See now also: Fleishman, "Offences Against Parents Punishable by Death: Towards a Socio-Legal Interpretation of Ex. 21: 15, 17," *Jewish Law Annual* 10 (1992), 7-37.

53. It is important to note that the average number of children in a family averaged 2.2, so that the continuation of the *bēt ʿāb*, "the household," was dependent in large measure on the loyalty of each child to his *bēt ʿāb*; see L. Stager, "The Archeology of the Family in Ancient Israel," *BASOR* 260 (1985), 1-36.

54. E.g., Exod. 2:11.

55. Gen. 21:8; Exod. 2:10-11.

age of transition from one stage to the other. However, from various passages one can learn of the capabilities of a child who has "grown up." In this stage certain characteristics appear,⁵⁶ he chooses his way of life and interests,⁵⁷ takes part in his father's affairs,⁵⁸ and concerns himself in the fate of others.⁵⁹ It is expected that one who has "grown up" will reach decisions on the basis of deliberation and deep understanding.⁶⁰

A boy who has "grown up" has the legal capacity to perform acts that have validity in the sphere of family law. He can marry,⁶¹ and he can deprive other potential heirs from receiving a share in his father's estate.⁶² He must also observe his legal obligations towards his parents.⁶³ The physical and intellectual capabilities that enable him to begin to blend into adult society are the characteristics of a child who has "grown up."

In this period signs of sexual maturity begin to appear on a child's body as one can infer from the prophet Ezekiel who says, "I let you grow like the plants of the field: and you continued to grow up until you attained to womanhood, until your breasts became firm and your hair sprouted . . ." (16:7). This verse describes the signs of sexual maturity of a girl who has grown up. There are two such signs: the growth of hair on the body and the development of breasts.⁶⁴

The growth of the beard is a sign of maturity for male.⁶⁵ When a boy has grown a beard, he can be counted among "the elders of the city," who need not be old in years but must be bearded, that is, the mature citizens.⁶⁶ It is almost certain that partial maturity already began when the first traces of a beard began to appear on the cheeks of the lad in the early part of the second decade of his life.⁶⁷

56. 1 Sam. 2:26.

57. Gen. 21:20; 25:27.

58. 2 Kgs. 4:18.

59. Exod. 2:11.

60. Rehoboam did not accept the advice of the elders but consulted with "the young men who had grown up with him" (1 Kgs. 12:8). The phrase "the young men who had grown up with him," which is repeated in 1 Kgs. 12:10 and in 2 Chr. 10:8, 9, 14, is an ironic expression, by which the narrator expresses his opinion on the advice of the "young men." Rehoboam reached the throne at the age of forty-one (1 Kgs. 14:21) so that the "young men" were over forty, but their advice is that of "young men," namely, without full consideration and comprehension of the situation. See H. Tadmor, "The People and the Kingship in Ancient Israel in the Biblical Period," *Cahiers d'Histoire Mondiale* 11 (1968), 55.

61. Gen. 38:11; Ruth 1:13.

62. Judg. 11:2. The elders of Gilead confirmed Jephthah's being disinherited by his brothers; see I. Mendelsohn, "The Disinheritance of Jephthah in the Light of Paragraph 27 of the Lipit-Ishtar Code," *IEJ* 4 (1959), 116-19; A. Soggin, *Judges, OTL* (Philadelphia, 1981), 204, 207.

63. Isa. 51:18. To "lead" a parent and to support him so that he does not disgrace himself is one of the obligations of a child towards a parent at Ugarit and apparently in Israel as well; see Y. Avishur, "The 'Duties of the Son' in the Story of Aqhat and Ezekiel's Prophecy on Idolatry (Ch. 8)," *UF* 17 (1986), 55-56.

64. M. Greenberg, *Ezekiel 1-20, AB* (Garden City, NY, 1983), 276. Greenberg is correct that the verse reminds one of the signs of maturity according to Jewish law. As he notes, these characteristics are also signs of maturity in Sumerian literature; see also Y. Sefati, *Love Songs in Sumerian Literature—Critical Edition of the Dumuzi-Inanna Songs* (Ph.D. Diss., Bar-Ilan University, Ramat-Gan, 1985), 125 [in Hebrew with an English abstract]. Further evidence is to be found in T. Jacobsen, *The Harps that Once . . . Sumerian Poetry in Translation* (New Haven, 1987), 93.

65. L. Koehler, *Hebrew Man* (London, 1956), 24.

66. Loc. cit.

67. Wolff, *Anthropology of the Old Testament*, 24; see also below.

Biblical texts clearly show that there is a clear distinction between a minor and a grown-up. However, one cannot ascertain from these texts at what age a child is considered an adult. This question can perhaps be answered by analogies from earlier ancient Near Eastern and the later rabbinic legal materials. An integrated analysis of these three systems will shed light on our problem.⁶⁸

Mesopotamian law serves as an important aid to the study of Biblical law because of the many links between them.⁶⁹ Jewish law, though it is later than Biblical law, preserves many of the principles of the earlier legislation. Furthermore, even Talmudic law is to be considered ancient when it is not subject to dispute, and especially when it parallels early ancient Near Eastern law.⁷⁰ Therefore, a combined analysis of ancient Near Eastern and early Jewish law can be suggestive of how to fill gaps concerning the legal age of a child in Biblical law.

From various articles of the Code of Hammurapi one can deduce that a minor—whose age is not given—does not have the legal capacity to perform acts that have legal validity. He does not have the right to sell moveable goods or to give them to a guardian,⁷¹ nor to fulfill the feudal obligations of his father⁷² or to marry a wife.⁷³ The Code of Hammurapi, however, does not provide any information as to the age of legal maturity.

Article A 43 of the Middle Assyrian Laws of the 12th century B.C.E. is the oldest source known to us that specifically defines the minimal age from which a child is permitted to perform an act of legal validity.⁷⁴ This law provides that if a father took a bride for his son and completed all of the necessary legal formalities, but the son died or ran away, the father is permitted to give the bride to a son of his choice on condition that the appointed son is at least ten years old. If the father and the intended groom died, and the groom had a son by another wife who is ten years old, he is permitted to marry the bride of his dead father. However, if the child of the dead groom was not ten years old, her father may give her to another of the sons of the head of the household or cancel the marriage agreement altogether, in accord with the conditions specified in this article.

Inasmuch as all the legal formalities necessary for a valid marriage were carried out, the bride is legally married to the groom even though the marriage was not yet consummated. The bride is not subject to the legal authority of the head of

68. In Greek and Roman Law, too, there exists a distinction between a minor and an adult with regard to legal capacity. These legal systems set different ages from which a person can perform acts of legal validity; see A. R. W. Harrison, *The Law of Athens* (Oxford, 1968), 1:73–75, 80–81, 108, 236; W. W. Buckland, *A Textbook of Roman Law from Augustus to Justinian* (Cambridge, 1963), 157–59, 169–73.

69. See, e.g., E. A. Speiser, "The Biblical Idea of History in its Common Near Eastern Setting," *IEJ* 7 (1957), 201–16; W. W. Hallo, "Biblical History in its Near Eastern Setting: The Contextual Approach," in C. D. Evans, et al., eds., *Scripture in Context, Essays on the Comparative Method* (Pittsburgh, 1980), 1–26.

70. S. E. Loewenstamm, "Law, Biblical Law," *Encyclopedia Biblica*, 5:619 [in Hebrew].

71. See article 7. For transliteration and transcription see G. R. Driver-J. C. Miles, *The Babylonian Laws* (London, 1955), 2:15. For their commentary to this article, see 1:82–86.

72. Article 29. For transliteration and translation, see *ibid.*, 2:23; For commentary, see 1:115–18.

73. Article 166. For transliteration and translation see *ibid.*, 2:64–65; for commentary, see 1:346–47.

74. For transliteration and translation, see G. R. Driver, *The Assyrian Laws* (Oxford, 1935), 411; for commentary, see 180–86.

the groom's family. With the death of the intended groom, the bride still remains under the authority of the groom's father so that he is legally justified in giving the bride to another of his sons. The only legal limitation is that the son be at least ten years of age.⁷⁵ Article A 43 also provides that if the head of the family died and the property of the family is divided and the intended groom also died, but left a son from a previous marriage, this son is to inherit his father's bride on condition that he is at least ten years old. One can deduce from this limitation that the age of ten years is the minimal age at which a boy acquired legal capacity to marry his brother's bride and inherit his father's property.⁷⁶

The Middle Assyrian Laws do not provide any reason for considering ten to be the legal age for marriage and inheritance. It would seem that age ten, the beginning of the second decade of a child's life, is regarded as the legal age because at that time the biological signs of maturity begin to appear.

Moreover, various cuneiform documents indicate a link between the appearance of the biological signs of maturity—namely, the growth of body hair—and the intellectual capacity to perform various acts that require ability and responsibility, which a child, who lacks the biological signs, is incapable of performing.⁷⁷

In two letters found at Mari of the Old Babylonian period, 18th c. B.C.E., Šamši-Adad, the king of Assyria, rebukes his son, Yasmaḥ-Addu, whom he appointed to govern Mari, because of the latter's failure to fulfill his task efficiently.⁷⁸ According to ARM I, 108, 11. 5–8, which records the father's reproof of his son's activities, the father is quoted as saying, "How long will we have to direct you without cessation? Did you remain a child? Are you not a man? Do you

75. The boy will carry out the necessary legal formalities in order to complete the marriage by himself because there is no one with authority to give her to him; see A. Skaist, "Levirate," *Reallexicon der Assyriologie*, 5:606.

76. An interesting witness to the essential difference between the capability and intellectual capacity of the child until the age of ten and those of the child between the ages of eleven to twenty, is found in Papyrus Insinger, in M. Lichtheim, *Ancient Egyptian Literature* (Berkeley, 1980), 1:199. According to this 1st century B.C.E. text, whose source appears to be from the 4th century B.C.E., the age of a man is divided into different stages from childhood until old age. The pertinent lines read:

17, 22. He (man) spends ten (years) as a child before he understands death and life.

23. He spends another ten (years) acquiring the work of instruction by which he will be able to live.

Until the age of ten the child is incapable of differentiating between "life" and "death," namely, between "good" and "bad." The child is not yet capable of finding the "way of life," which way one is to follow in order to be saved from an untimely death. In the second decade of life one learns the means by which to find "the way of life." I wish to thank Dr. N. Shupak for her aid in understanding this text.

It is also certain from LE §16 that a minor cannot inherit his father's property; see R. Yaron, *The Laws of Eshnunna* (Jerusalem, 1969), 99–100 and n. 76.

77. In Greek law physiological signs do not serve to indicate the maturity of the child; see B. Cohen, *Jewish and Roman Law: A Comparative Study* (New York, 1966), Hebrew section, 2:1–2. However, in Roman law these signs do indicate the maturity of the child; see Buckland, *Textbook*, 114 and n. 14. In the Hellenistic law of Egypt, too, physiological signs served as evidence of maturity; see Cohen, *Jewish and Roman Law*, 3.

78. ARM I, 61; 73. On the position and personality of Yasmaḥ-Addu, see M. Anbar, *The Amorite Tribes in Mari and the Settlement of the Israelites in Canaan* (Tel Aviv, 1985), 57–58 [in Hebrew]; S. Dalley, *Mari and Karana: Two Old Babylonian Cities* (London, 1984), 33–35.

not have a beard on your cheeks?" By expressing himself through rhetorical questions, the father conveys his anger.⁷⁹

Šamši-Adad, who wants to emphasize that Yasmaḥ-Addu, who is already an adult, lacks both ability and maturity,⁸⁰ asks him whether he is a *šeḥrum*, "child," that is, a minor, and not an *eḫlum*, "mature man." Yasmaḥ-Addu is likened to minor who cannot find his way on his own so that an adult must constantly guide him. One should keep in mind that Solomon described his own inability in a similar manner (see above). The way of expressing that Yasmaḥ-Addu is acting like a minor is to ask rhetorically whether he has a beard. A minor does not have a beard.

We do not know the precise age of Yasmaḥ-Addu at the time the letters were exchanged. One can tell from the correspondence that he was without doubt an adult. The importance of this passage for our purpose derives from the fact that it reflects the attitude towards the child intellectually and physiologically. The child is viewed as one who does not have the capacity to act independently and lacks the signs of physical maturity. Since the biological signs of maturity begin to appear in the first years of the second decade of the child's life,⁸¹ one can deduce that with the appearance of hair on the body a child no longer has the status of a minor.

There are also a few Nuzi texts from the 15th century B.C.E. that link sexual maturity with legal capacity.⁸² These texts provide that sons are to inherit their father's property when the "beards of the sons will grow." The growing of the beard is the indication of maturity of the child. From that time he has the legal capacity to inherit his father's property.

Jewish law, too, adduces the age of ten and signs of sexual maturity as the two criteria for establishing the age of legal capacity. It has been shown that in early Jewish law there is no clear-cut definition of the term *qāṭān*, "minor," nor is there an age of transition from the status of minor to that of adult. "The early law saw the child from the day of his birth or from the day that he had the physical capacity to observe the commandments as one who was commanded to observe the commandments." But such is not the case with regard "to commandments of a legal nature that required intellectual maturity skill in judgment and sexual maturity." In these cases the age of legal capacity was defined according to age and biological signs.⁸³

The beginning of the legal capacity to perform acts that have legal validity is conditioned on age and biological signs and occurs at various times in the beginning of the second decade of the life of the child. Therefore, "if a body nine years and one day of age had sexual intercourse with the widow of his childless brother, he has acquired her (as his wife)" (*M./Nid.* 5:11). This is very reminiscent of

79. Cf. *ARM* 1, 61:10–11; 73:43–44.

80. Also in *ARM* 4, 11:4–24. Šamši-Addu rebukes his son and accuses him of lack of efficiency and independence but does not define him as a minor. So, too, in *ARM* 1, 61, Šamši-Addu tells his son that even at the peak of his life he has not built a suitable household.

81. Koehler, *Hebrew Man*, 74; Hoebel, *The Law of Primitive Man*, 324.

82. *HSS* 19, 22; 37; 44. The transliteration and translation of these texts can be found in J. Paradise, *Nuzi Inheritance Practice* (Ph.D. Diss., University of Pennsylvania, 1972), 123–32.

83. Y. D. Gilat, "Thirteen Years Old for Commandments," in *Mehqere Talmud* 1, (Jerusalem, 1990), 39–53 [in Hebrew].

article A 43 of the Middle Assyrian Laws. The child is considered an adult in this case because he can give birth to a son "who will perpetuate the name of his dead brother."⁸⁴ On the other hand, in order for one's vow to be valid, one must possess a certain level of intellectual maturity. Thus a girl is considered mature in this matter from the age of twelve, or even from the age of eleven, if she was examined and it was found that she understands the nature of her vow. Inasmuch as the intellectual maturity of a boy develops later his vow acquires validity only from the age of thirteen. If he was examined at the age of twelve and it was found that he understood the nature of the vow, then his vow is valid. (*M./Nid.* 5:6).

According to early Jewish law, "the age of transition from that of minor to adulthood continued from a very early age until the age of thirteen and at times even beyond that." Because of this situation, at the end of the period of the Tannaim (the sages of the Mishnah), a set age was established from which time onwards the child was obligated to fulfill the religious commandments. In later Jewish law of the Amoraic (early Talmudic) period, the legal age was delayed until the age of twelve for girls and the age of thirteen for boys. This was done apparently because at this age most boys and girls already bear the signs of sexual maturity. Nevertheless, a child did not obtain legal capacity in all matters at that age. In various areas that require full intellectual maturity, the age of legal capacity was set at twenty years.⁸⁵

In conclusion: from the analysis of the various Biblical sources and the analogies from the earlier ancient Near Eastern and later rabbinic legal materials one can conclude that: (a) Biblical Law differentiated between the minor and the adult; (b) the onset of legal maturity, *legitima aetas*, began in the first years of the second decade of a child's life with the appearance of signs of sexual maturity; but (c) only the age of twenty was considered to be the age of full legal maturity, *plena pubertas*.

There is no clear-cut evidence in the Bible that a child had a legal capacity at the beginning of the second decade of his life. Nevertheless, one can conclude from the various hints that we found in the Biblical sources we treated, as well as from the testimony from the ancient Near East prior to the period of Biblical law and from the testimony of early Jewish law that in the Bible, too, a child developed legal capacity when signs of sexual maturity begin to appear at the onset of the second decade.

We suggest that from the time that signs of sexual maturity were observed, the child's legal personality gradually developed, so that by the end of the second decade one arrived at *plena pubertas*, full legal capacity. At present we cannot reconstruct the stages of the evolution of a legal personality. We suggest, on account of the patriarchal character of the Israelite family, that a person was first considered an adult within the framework of family law. We are of the opinion that between the time signs of sexual maturity began to appear till the age of twenty, legal maturity in the various spheres of law was established by customary law.

84. Loc. cit. On the legal capacity of a child of nine years and a day in family law, see TB *Sanh.* 69a and b.

85. For further literature, see Gilat, *Ibid.*, 50–53.