

Juvenile Delinquency in the Bible and the Ancient Near East

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1. *Modern Definitions*

Even though definitions of juvenile delinquency vary from country to country and from state to state, most modern definitions include both criminal and civil offenses. Criminal offenses include felonies like murder, rape, robbery, and assault, and misdemeanors, which are less serious crimes like vandalism, and petty larceny. Civil offenses are forms of conduct not considered illegal when committed by adults. Examples of these are refusal to obey reasonable orders of parents, habitual truancy, running away, etc. These offenses are legally categorized as status or non-adult offenses, and are handled by different court agencies. A typical definition of juvenile

delinquency in this category may be seen from section 601 of the California Welfare and Institutions Code which reads:

Any person under the age of 18 years who persistently or habitually refuses to obey the reasonable and proper orders or directions of his parents, guardian, custodian or school authorities, or who is beyond the control of such person, or any person who is a habitual truant from school within the meaning of any law of this state, or who from any cause is in danger of leading an idle, dissolute, lewd, or immoral life, [this clause was subsequently held to be unconstitutional by the courts]¹ is within the jurisdiction of the juvenile court which may adjudge such a person to be a ward of the court.

To avoid the stigma attached to the term 'juvenile delinquent' New York State (and others) adopted a different terminology. A former 'juvenile delinquent' is now "a person in need of supervision." Section 712 of the New York State Family Court Act reads as follows:

A "person in need of supervision" means a male less than sixteen years of age and a female less than eighteen years of age who does not attend school in accord with the provisions of part one of article sixty-five of the education law, or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority.²

With these modern definitions in hand we can commence our investigation into the nature of juvenile delinquency in the ancient Near East. Our investigation is, of course, constrained by the amount of textual evidence available to us. This evidence consists of documents written in cuneiform script and sections of the Hebrew Bible. Fortunately, quite a few of these extant texts touch upon the question at hand.

At the outset we should state that because of obvious differences in time, values, and outlook there are bound to be differences between ancient and modern perceptions of social phenomena. This is true likewise with juvenile delinquency, for when we examine the texts we note three significant differences. In the first place age is not a factor in the determining of a delinquent in the ancient Near East: age is never mentioned in the texts. A minor, for all intents and purposes, was one who was living in his or her parent's house. There he or she has duties and responsibilities which place him directly under the authority of the parent. Responsibility for a minor's behaviour rested solely with the parent. Any anti-social act committed by the minor was considered also an offense against the parent who dealt with it accordingly. When proceedings are initiated against a minor, as we shall see, it is the parent, not the courts, who institutes the proceedings. Secondly, truancy, which is a social problem in our day and constitutes delinquency, was not a problem in ancient times simply because there was no universal education. Schooling in Mesopotamia, for example, was a matter strictly for the upper classes,³ and even among these classes it was limited. It is interesting to observe that of all the Mesopotamian kings, only three—the Sumerian

1 Thomas R. Phelps, *Juvenile Delinquency: A Contemporary View* (California, 1976), 37.

2 McKinney's *Consolidated Laws of New York*, Book 29a, Judiciary, Part 1, *Family Court Act* (Minnesota, 1975), §712.

3 S. N. Kramer apud C. H. Kraeling and R. Adams, *City Invincible* (Chicago, 1960), 109.

kings Shulgi and Lipit Ishtar, and the great Assyrian king Ashurbanipal—boasted that they knew how to read and write, and the claims to literacy of even these three kings are strongly doubted by scholars.⁴ Also from what we know of literacy in ancient Israel, schooling was not universal there either.⁵ Hence the absence in our texts of truants and truancy.

The third major difference is in the area of criminal acts. In ancient times no provision was made for a minor committing a criminal act, that is, there was no special protection extended to juveniles convicted in criminal cases: the penalty for both an adult and a minor was the same. This represents a striking difference from our judicial system whereby a minor is not held to be as criminally responsible for his conduct as an adult. In effect he is granted a certain amount of protection by the courts, and his sentence is not as severe as an adult's would be in a similar case. It is curious that in the few examples we have of felonies committed by minors in the ancient Near East the opposite situation prevails. A minor receives a more *severe* sentence than an adult would in a comparable case.

We shall first look at these examples from criminal cases and then we shall turn to civil or status offenses.

2. *Criminal Offenses*

Evidence for minors being involved in criminal cases may be found in both legal and non-legal texts.

a. *Legal texts*

Only two law codes in the ancient Near East deal with the question of felonious assault by a minor, and both involve assaults against a parent. Section 195 of the Code of Hammurabi (18th century B.C.E.) reads:

If a son (intentionally) strikes his father, his hand will be cut off.

Exodus 21:15 states:

He who (intentionally) strikes his father or mother shall certainly be executed.

The Hammurabi punishment is what is known as a mirror punishment,⁶ and we shall see other examples of this type of punishment later on. The principle is that the part of the body which is instrumental in the offense is considered the guilty party and hence disposed of. In this case it is the hand which is considered guilty and is cut off. In the biblical formulation the felony is extended to include both parents: this indicates concern for both the father and the mother; and the punishment is even more severe:

4 B. Landsberger apud Kraeling and Adams, *City Invincible*, 111.

5 J. Kaster, "Education, OT", *Interpreter's Dictionary of the Bible*, Vol. 2 (Nashville-New York, 1962), 34.

6 G. R. Driver and J. C. Miles, *The Babylonian Laws*, Vol. 1 (Oxford, 1960), 411.

capital punishment instead of mutilation. At this point we should not get too exercised over whether or not these punishments were ever carried out. It is considered today most unlikely that these types of punishments, or talionic punishment in general, were ever put into practice in the ancient Near East.⁷ What is important here is the severity accorded these offenses in the light of other offenses listed in the same legal corpus. It is most significant that in both cases the assault is against a parent. Assault against another person would subject the minor to a lesser penalty. In Mesopotamian law a minor striking someone other than his parent would not have his hand cut off; depending on his status he would be fined or flogged.⁸ Likewise, in ancient Israel he would be fined and not subject to the death penalty.⁹ Thus we have a situation where striking a non-parent makes one subject to regular criminal law, but striking a parent makes one subject to a 'juvenile delinquent' law which carries a more severe penalty. As we have noted this is precisely the opposite of our modern concept where lack of criminal responsibility by reason of age is a defense, and where one covered by a 'juvenile delinquent' law would receive a less severe sentence than would an adult in a similar case.

b. *Non-legal texts*

Outside of the legal corpora we have mention of youthful felons in the first chapter of the Book of Proverbs where the operation of a juvenile gang is described. The account is embedded in a sapiential discourse by a master to a student—presumably a minor—warning him of the dangers of bad company, and exhorting him not to listen to the promises of those who say that "crime pays." The pertinent verses 10–19 read as follows:

My son, if sinners entice you,
do not go along with them.¹⁰
If they say, "Come with us,
let us make a bloody ambush,
let us lurk for some totally innocent;
let us swallow them alive like Sheol,
[let us swallow them] whole just as
those who go down to the Pit [are swallowed].
We shall find all kinds of wealth,
we shall fill our houses with booty.
Throw in your lot with us,
there is one purse for us all."
My son, do not go along with them,
restrain yourself from their path.
For they are heading towards evil,
and are rushing to shed blood.
For just as it is no use setting a net

7 J. Finkelstein, "Cuneiform Law," *Encyclopaedia Judaica*, (Jerusalem, 1971), 16:1505i.

8 *Code of Hammurabi* § 202-4.

9 Exod. 21:18–19.

10 The Hebrew *tōbē* 'consent' is possibly an abbreviation for *telek bederek 'ittām* as in v. 15.

so that the birds can see it,¹¹
 These men are laying a bloody ambush for themselves,
 and are lurking against their own lives.
 Such is the end¹² of every one who is greedy for gain:
 it takes away the lives of those who follow it.

The master's point is that retribution will eventually overtake these ancient "muggers". They will suffer the same miserable fate that they had planned for their victims: measure for measure.¹³ Some scholars have suggested that these lines be taken literally and interpret the passage as an exhortation against banditry.¹⁴ Toy, for example, points to a specific time during the Persian and Greek periods when large cities contained organized criminal classes.¹⁵ Others, noting that there are criminals in every period of history, believe that the passage does not have any particular historical reference.¹⁶ Still others interpret the discourse purely figuratively.¹⁷

But whether figurative or not, or whether any historical reference can be found or not, we note that the eventual punishment for the youthful felon is to be the same as a regular criminal. No provision is going to be made for leniency because of the lad's status as a juvenile delinquent. Both the juvenile and the more experienced criminals will meet the same fate. "Such is the end of every one who is greedy for gain: it takes away the lives of those who follow it."

3. *Civil or Status Offenses*

Turning now to non-criminal acts, civil or status offenses, we review the salient points of the modern definition of a juvenile delinquent as one who is incorrigible, ungovernable, or habitually disobedient. The operative word in most modern definitions is 'habitual'. An isolated occurrence does not make a child delinquent. Note that the New York State definition speaks of the child as being "habitually disobedient," and the California one terms the delinquent as one who "habitually refuses to obey." We shall see that a number of ancient Near Eastern legal texts make this distinction as well. This is important because it enables us to distinguish what is clearly delinquency

11 This is a popular proverb, see R. B. Y. Scott, *Proverbs, Ecclesiastes*, Anchor Bible 18 (New York, 1974), 38–39. There are two usual interpretations: (1) it is useless to spread a net in the sight of a bird because it will not then enter [but the wicked are so stupid that even though they see the danger they will be trapped]; (2) whether the bird sees the trap set or not it is so foolish that it will still enter [the wicked are just as foolish as the bird].

12 Reading 'aḥarūt 'end' with the LXX instead of 'orhôt 'ways'.

13 On poetic justice in the Hebrew Bible and in the ancient Near East, see M. H. Lichtenstein, "The Poetry of Poetic Justice: A Comparative Study in Biblical Imagery," *The Gaster Festschrift, JANES* 5 (1973), 255–65.

14 Scott, *Proverbs*, 37; E. Jones, *Proverbs and Ecclesiastes*, Torch Bible Commentaries (London, 1961), 59–61.

15 C. H. Toy, *Proverbs, ICC* (Edinburgh, 1899), 14.

16 J. H. Greenstone, *Proverbs* (Philadelphia, 1950), 7; B. Gemser, *Sprüche Salomos* (Tübingen, 1963), 22.

17 For a discussion of these various interpretations, see W. McKane, *Proverbs* (Philadelphia, 1977), 268–69.

from what is only what we call "generation gap" disagreements. The ancients were well aware of this generation gap between parents and children. For example, one Old Babylonian letter writer (18th century B.C.E.) wrote wistfully to his correspondent: *mārum ša ana abī<šu> lā uqallalu ul ibašši* "there is no son who does not give his father trouble."¹⁸ Thus the celebrated example offered by Samuel Noah Kramer of the first case of juvenile delinquency in the recorded history of man¹⁹ is, in our opinion, not a case of juvenile delinquency at all, but a case of generational gap disagreement. The father is bitterly disappointed that his son has decided not to become a scribe like himself but pursue his own career. Although Kramer terms the son "wayward and disobedient" there is really nothing in the text to warrant such an assumption. On the contrary, the son is represented as respectful and attentive.²⁰

a. *Delinquency in adoption contracts*

We are able to garner a considerable amount of information about juvenile delinquency in ancient times because of the prevalence and popularity in the ancient Near East of the institution of adoption. Adoption played a major role and took many forms in ancient Near Eastern society.²¹ One of the most common forms it took was in the case of a childless couple who might adopt a son or daughter to look after them (especially in their old age)²² and perform the necessary funeral rites after their death.²³ In return, the adopted child would gain food and lodging, and would inherit the couple. A number of private adoption texts spell out in detail the expected duties of the adoptee, and we can presume that these duties obtained also with natural parents as well.²⁴ For example, one of the most common formulations was similar to the following which comes from a 12th century B.C.E. adoption contract: *adi balṭūni ipallaḥṣūni ittanabbašunu* "as long as they (the adoptive parents) live, he (the adopted son) will respect them and always support them."²⁵ Breach of agreement by either party was subject to penalties. Since the adopted child was considered a legitimate son or daughter, breach of contract on his or her part constituted not only a breach of an ordinary legal contract, but also represented a delinquent act toward his or her parent.

In both general legal texts (like the famous Code of Hammurabi) and in private legal documents the various ways a minor might abrogate the adoption agreement are

18 R. Frankena, *AbB* 6 (Leiden, 1974), No. 15:17–19. Cf., *CAD*, A¹, 68.

19 Originally published in the *National Probation and Parole Association Journal* 3 (1957), 169–73, and now revised and updated in his *History Begins at Sumer* (Philadelphia, 1981), 14–17.

20 M. Lambert, *RA* 56 (1962), 83. The text has recently been reworked by A. W. Sjöberg in *JCS* 25 (1973), 105–69.

21 Standard works on adoption in the Ancient Near East are: M. David, *Die Adoption im Altbabylonischen Recht*, Leipziger Rechtswissenschaftliche Studien 23 (Leipzig, 1927); E. A. Speiser, *New Kirkuk Documents Relating to Family Laws*, *AASOR* 10 (New Haven, 1930); H. Donner, "Adoption oder Legitimation?," *Oriens Antiquus* 8 (1969), 87–119.

22 David, *Adoption*, 101; David, "Adoption," *RLA* (Berlin and Leipzig, 1928), 1:38.

23 See, e.g., *BE* XIV, 40:13–15 [a fourteenth century B.C.E. adoption contract] where the adopted daughter is expected to "pour out water (*mē inaqqi*) upon the adoptor's demise.

24 G. Blidstein, *Honor Thy Father and Mother* (New York, 1975), 174.

25 *KAJ* I:8–9.

indicated. The following represent the major ways in which an adoptee might be declared delinquent.

1. *Absconding*

The adoptee might simply run away. The penalty for absconding was to be disinherited. Examples:

a. *Ana Ittishu* III:10–16 [a collection of practice texts in legal phraseology written in both Sumerian and Akkadian, and dating from the Old Babylonian period, 18th to 17th centuries B.C.E.]

Afterwards he has revolted (*ittasrar*),²⁶ run away (*šīta irtašī*), and fled (*ana sūqi ittenrub*);²⁷ he is disinherited (*ana mārūtīšu itrušū/ana aplūtīšu issuhšu*).²⁸

b. *YOS* 2,50:5–12 [an Old Babylonian letter]

In this letter the writer informs the district magistrate that he is not responsible for the actions of a certain young man, because that young man had run away three years ago and had been disinherited by the family.²⁹

My mother, a priestess, had adopted a young man. This young man ran away (*šītam irši*). I assembled twenty elders of the city and laid the facts before them. Because this young man ran away I disinherited him (*ina aḥḥūtim attasaḥšu*, literally, I removed him from his brother-status). Now he has gone and committed a crime.

c. *Code of Hammurabi* §193 [18th century B.C.E.]

If the (adopted) son of a *girsiquṁ*-functionary or of a *sekrum*-priestess discovered his natural parents, then, after rejecting (*izēr*) his foster father and his foster mother, he has run off to his natural parents' home (*ana bīt abīšu ittalak*), his eye shall be plucked out (*inšu inassaḥū*).

The reason why the penalty in this particular case is much more severe than in the two preceding ones is probably because of the fact that neither of these two classes of individuals mentioned, the *girsiquṁ*-functionary nor the *sekrum*-priestess, could have natural children. Presumably, the lawmaker wished to enable them to retain the adoptee at all costs.³⁰ The penalty is another typical mirror one. The eye is considered the guilty

26 Cf., B. Landsberger in *MSL* 1, 48, and W. von Soden in *AHw.*, 1029. Driver and Miles, *Babylonian Laws*, 1:386, translate 'misbehaved'.

27 Cf., von Soden, *AHw.*, 781. Driver and Miles, *Babylonian Laws*, 1:386, translate "frequented the streets."

28 Note that two formulas are used to indicate disinheritance: *ana mārūtīšu itrušū* "he is expelled from his sonship" and *ana aplūtīšu issuhšu* "he is removed [literally, uprooted] from his heirship."

29 Cf., Landsberger in *MSL* 1, 148, and G. R. Driver in *OECT* 3, 47.

30 Driver and Miles, *Babylonian Laws*, 1:404.

party because it was with the eye that the adoptee looked for, and found, his natural father's house.³¹

2. Failure to perform duties

The adoptee might fail to provide a parent with the proper maintenance as stipulated in the adoption contract. Examples:

a. Schorr, *Urkunden* 215:31–34³² [an Old Babylonian adoption contract]

If the adoptee does not provide clothing (*lubāšam*), oil (*piššatam*), and supplies (*piqittam*), he will be disinherited (*ina aplūtīšu inassahšu*)

b. Schorr, *Urkunden* 258:4–14 [record of the disposition of a case involving an adopted daughter, also Old Babylonian]

She (the adopted daughter) did not provide (her adopted parent) with clothing (*lubāšam*), oil (*piššatam*), nor her supplies (*piqittāša*). Both parties came before the court (lit. the judges). The adoptee was disinherited (*ina aplūtīša issuh*).

Sometimes the precise amount of the support is indicated. In another Old Babylonian document [written in Sumerian], a father divides his property in equal shares between a stepson and an adopted son. Each of them will supply the father yearly with two and two fifths *kur* of grain, three *minas* of wool, and three *qa* of oil. He who fails in his duty forfeits his share in the inheritance.³³

The penalty for failure to provide proper maintenance is the same as that for absconding. The Akkadian terminology used in both cases is identical, namely, *ina aplūtīšu nasāhu* “to be removed from his heirship.” This formula of disinheritance may help clarify another Old Babylonian adoption contract in which the adoptee is to receive this punishment should aggrieve his adopted father. The text literally says “if he makes his (the adopted father’s) heart sick” (*libbi X uštamrišu*).³⁴ What this aggravation might consist of we do not know, but since the identical formula of disinheritance (*ina aplūtīšu nasāhu*) is also used in this text it is likely that it comes into the same category as absconding and failure to perform required duties.

3. Contempt

A considerable number of adoption contracts contain clauses whereby the adoptee would be accounted in breach of contract should he make a declaration to his adoptor that he is not his parent, or should he reject the parent, or should he not obey or respect

³¹ *Loc. cit.*

³² M. Schorr, *Urkunden des Altbabylonischen Zivil- und Prozessrechts* (Leipzig, 1913).

³³ Schorr, *Urkunden*, No. 21 (especially lines 26–27). Cf., R. Yaron, “Varia on Adoption,” *Journal of Juristic Papyrology* 15 (1965), 180.

³⁴ Schorr, *Urkunden*, No. 15:17–18.

the parent. We use the term contempt to include all these cases³⁵ because in its legal sense contempt is the willful disregard or disobedience of authority,³⁶ in this case the parent.

a. *Declaration "You are not my parent"*

This declaration, whether it was a real one (using a fixed formula)³⁷ or was simply inferred by his conduct, amounts to a rejection of the authority of the parent. Examples:

1. *YBC 2177* rev. col. IV:4 [a student legal exercise written in Sumerian and dated to the Old Babylonian period]

If (a son) has said to his father and to his mother: "you are not my father; you are not my mother," he forfeits (his heir's rights to) house, field, orchard, slaves, and (any other) property, and they may sell him (into slavery) for money at full value.³⁸

2. *Ana Ittishu* 7, iii:23–33 [Old Babylonian period]³⁹

If a son says to his father "you are not my father" he (the father) may shave him (*ugallabsū*), may put the slave mark on him (*abbutum išakkansū*) and sell him (*ana kaspim inamdinsū*).

If a son says to his mother "you are not my mother" they shall shave half his head (*muttassu ugallabū*), lead him round the city (*ālam usaḥḥarūšu*), and put him out of the house (*u ina bitim ušeṣṣū*).

We note the difference in punishment for denying the mother. In this case he is ceremoniously led round the city before being disinherited.

3. *Code of Hammurabi* §192

If the adopted son of a *girsiquṃ*-functionary or of a *sekrum*-priestess has said to his foster father or to his foster mother "you are not my father," "you are not my mother," they shall cut off his tongue (*lišānšu inakkisū*).

As in the case of the adopted son running away from one of these two classes of people, the penalty for the son who denies them is also more severe. The penalty is yet another

35 We have used the term contempt following the proposal of W. L. Rothschild who used the term 'contempt' to translate the Hebrew verb *leqallēl* (on which, see *infra*) in his Ordination Thesis "A Study of Covenant Code Laws: Exodus 21:1–22:16" submitted to the Hebrew Union College, Jewish Institute of Religion (Cincinnati, 1980), 138–39.

36 H. C. Black, *Black's Law Dictionary*, rev. 4th ed. (Minnesota, 1968), 390, defines contempt as "a willful disregard or disobedience of a public authority."

37 Whether such oral declarations were employed in actual practice or became mere archaic expressions is debated among scholars, see Driver and Miles, *Babylonian Laws*, 1:402.

38 Translated by J. J. Finkelstein in *ANET*³, 526.

39 *MSL* 1, 101–2.

mirror punishment. The offense was committed by the tongue by uttering the formal denial, so it is held to be the guilty party and is cut out.⁴⁰

4. *Private adoption contracts*

Most of the private contracts dealing with adoption come from the Old Babylonian period.⁴¹ The language of these contracts tends to be very stereotyped.⁴² The penalty for the declaration “you are not my parent”; is normally “he will be shaved” (*ugallabūšu*) and sold (*ana kaspim inaddinūšu*).⁴³ The latter, of course, implies disinheritance as well, and in one text this is specifically spelled out.⁴⁴

b. *Rejecting parent*

Contempt may also be shown by the adoptee by rejecting the parent completely. The term used for rejection in these texts is *zêru*, usually translated ‘to hate’.⁴⁵ Examples:

1. *Ana Ittishu* 3, iv:40-43 [= *MSL* 1, 49-50]

If an adopted son rejects (*izzer*) his father he shall forfeit whatever he has brought with him (*ina mimma ša ušëribūšu itellî*).

2. *Code of Hammurabi* §193

If an adopted son of a *girsiquûm*-functionary or of a *sekrum*-priestess discovered his natural parents, then, after rejecting (*izêr*) his foster father and his foster mother, he has run off to his natural parents' home, his eye shall be plucked out.

We already commented on this section when we discussed absconding of an adoptee. Here we simply note that prior to running away the adoptee has rejected (*izêr*) his parents.

3. *PRU* III, 55:11-14 [an adoption contract form Ugarit circa 14th century B.C.E.]

If the adopted son rejects (*izêr*) his adopted father, he will wash his hands (*qâtêšu imassi*) and go off into the street (*ina sūqi ipaṭṭar* [that is, be disinherited]).

Of particular interest in this text is the symbolic act, “the washing of the hands,” which

40 Driver and Miles, *Babylonian Laws* 1:402.

41 Extant texts dealing with adoption (and marriage) are more numerous in the earlier periods of Mesopotamian history; see A. L. Oppenheim, *Ancient Mesopotamia* (Chicago, 1964), 283.

42. Cf., David, *Adoption*, 42, and see Schorr, *Urkunden*, Nos. 8-11, 20.

43 Examples: *ARM* VIII, 1:17-18 [an Old Babylonian text from Mari]; Schorr, *Urkunden*, No. 8:20-21. The single adoption contract we have from the Middle Babylonian period [14th century B.C.E.] similarly states: “If the adoptee says, ‘you are not my mother’, she shall be made a slave” (*BE* XIV, 40).

44 Schorr, *Urkunden*, 20:18-20. A Middle Assyrian [12th century B.C.E.] adoption text only speaks of a fine for the same declaration: “If the adopted daughter says to her adopted mother, ‘you are not my mother’ she is fined two mana’s of silver” (*KAJ* 1:11-13).

45 See the standard translations of cited passages.

the adoptee has to perform before being disinherited. Apparently it means that he will go off without anything, his hands being empty or “clean.”⁴⁶ We shall note a parallel to this symbolic act in another text from Ugarit where prior to being disinherited the ejected one has to leave his cloak on the doorpost as a sign of total severance (see *infra*).

As to what form the actual rejection of the parent took, we can only speculate. Has he refused to perform his expected duties?⁴⁷ Is some hostile conduct implied?⁴⁸ It is clear, though, that what is involved is a desire by the adoptee to revoke the agreement and unilaterally dissolve the relationship.⁴⁹

c. *Disrespect or disobedience*

Contempt may also be shown by willful disrespect or disobedience to the adopted parents. Examples:

1. *KAJ I, 6:17–23*⁵⁰ [a Middle Assyrian private adoption contract circa 12th century B.C.E.]

If the adopted one does not respect (*lā ipallāḥ*) his adoptive father, he may be shaved (*ugallabšu*) and sold (*ana kaspi iddinšu*) without further legal process (*balu dēni u dabābi*).

We have previously noted that an important obligation of the adopted person is to respect his new parents. The term used here for respect (*palāḥu*) is the same one used in the stereotyped expression in many adoption contracts where the obligations of the adoptee are listed (*adi A balṭu B ipallāḥšu* “as long as A lives, B shall respect him”). What is most interesting in this case is that it is written into the agreement that should the adoptee not respect his adopted parent the child may be punished without the adopter having to resort to further legal process (*balu dēni u dabābi*, literally, “without suit or complaint” = “without further legal process”).⁵¹ The penalty called for in this case (shaved and sold for slavery) is identical to that called for in another case of contempt where the adoptee makes a declaration denying the authority of the parent.

2. *HSS V, 7:18–30*⁵² [a private contract from Nuzi circa 15th century B.C.E.]

As long as the adopter and his wife live (*adi balṭu*) Shelluni (the adopted son) shall respect them (*ipallāḥṣunūti*). If Shelluni does not obey (*lā išemme*) his adopted parents, if he causes them to come before the judges (*ana pāni dayyāni ušellāṣunūti*) a second and a third time (*šumma šaniḏāna šumma*

46 Cf., Donner, *Adoption*, 102. Yaron translates “he will forget his hands” from the verb *mēšu* ‘to forget’, but he interprets the same way: he will leave without taking anything (*Varia*, 182–83).

47 Driver and Miles, *Babylonian Laws*, 1:404.

48 David, *Adoption*, 92.

49 Cf., Donner, *Adoption*, 102; Yaron, *Varia*, 182.

50 Text published by M. David and E. Ebeling in *Zeitschrift für vergleichende Rechtswissenschaft* 44 (1929), 309.

51 Cf., *CAD*, D, 3.

52 Discussed by Speiser in *New Kirkuk Documents* (see n. 21), 34–35.

šaššišu ušellūšunūti) his relationship is annulled (*kirbānšu iheppesunūti*, literally, “they [!] will break his clod”).

Certain points in this text are worthy of note. In the first place we note the stereotyped expression *adi balṭu ipallaḥšunūti* “as long as they live he shall respect them” occurs alongside the conditional phrase “if he does not obey (*lā išemme*) them.” This indicates the closeness, and perhaps even synonymous use, of the two verbs *palāḥu* ‘to respect’ and *šemū* ‘to obey’. Secondly, we note that the adopted son, Shelluni, is only to be punished if he becomes an habitual offender. We are not informed of the nature of the disobedience, but it is obviously of a most serious nature to necessitate the parents having to come before the judges, and it must be persistent disobedience for them to have to go through the procedure three times.⁵³ Only after the third court appearance and, presumably, third conviction is Shelluni to be disinherited. Thirdly, the phrase used for the annulment of the contract is *kirbāna hepū* which literally means ‘to break the clod’. This is yet another symbolic act which we find in the adoption contracts for being disinherited.⁵⁴ Here it no doubt signifies the physical breaking of the original contract.

To sum up the picture of juvenile delinquency as reflected in the adoption tablets, we see that delinquency consists of not fulfilling duties towards parents or by displaying contempt. The former could involve either running away or not providing a parent with proper maintenance. The display of contempt might be indicated by rejecting the authority of the parent sometimes by making an oral declaration “you are not my parent” or by rejecting the parent or by being grossly disrespectful or disobedient. The parents may institute judicial proceedings against the child, and the most common punishment is that the child is disinherited. Some of the texts speak of harsher penalties against the child such as being sold into slavery, or even in exceptional cases some bodily mutilation.

b. *Delinquency in other documents*

Outside of adoption contracts there are only a few other cuneiform texts which touch upon juvenile delinquency. Two are to be found in adjacent sections of the Code of Hammurabi and another in a Ugaritic document dated between the 15th and 13th centuries B.C.E..

1. *Code of Hammurabi* §168

If a man, having made up his mind to disinherit his son (*ana mārīšu nasāḥim*), has said to the

53 The CAD, K, 403, interprets the text differently: “If the adopted son does not obey or if he institutes legal action three times against his parents.” It is true that in these Nuzi texts there is ambiguity whether the copula *u* is ‘and’ or ‘or’, and there is often confusion between singular and plural verbs with suffixes (for which, see Speiser, *New Kirkuk Documents*, 35, n. 30). But it seems more logical that the parents would take the son to court after a disobedient act than the reverse.

54 Y. Muffs has shown that symbolic acts in Mesopotamian legal contracts have parallels in other legal corpora, especially in old Germanic and Anglo-Saxon law; *Studies in the Aramaic Legal Papyri from Elephantine* (Leiden, 1969), 21, n. 4.

judges, "I wish to disinherit my son (*māri anassah*)," the judges shall investigate his record, and, if the son did not incur a wrong grave (*arnam kabtam*) enough to be disinherited (*ina aplūtim nasāhim*), the father may not disinherit his son (*ina aplūtim ul inassah*).

2. Code of Hammurabi §169

If he has incurred wrong against his father grave (*arnam kabtam*) enough to be disinherited (*ina aplūtim nasāhim*), they shall let him off the first time; if he has incurred a grave wrong a second time, the father may disinherit his son (*ina aplūtim inassah*).

There are a number of interesting points in these sections. In the first place the father may not disinherit his son himself. He must come before the courts. This shows that in the Old Babylonian period, if not in all periods,⁵⁵ the concept of *patria potestas*, where power is vested in the father with respect to his wife and children, did not obtain in Mesopotamia. Secondly, because of the fact that leniency is shown the son for the first offense, it is clear that the son, to warrant the punishment, would have to be an habitual offender. The third point of interest is the nature of the offense to be committed by the son. Unfortunately, neither of the sections give a clue as to what offense is meant. The Akkadian term used *arnum* is a very general term, and can denote any crime, offense, or misdeed. It is qualified by the adjective *kabtu* 'grave', 'severe', 'serious', indicating that, whatever the offense was, it was a most serious one and warranted disinheritance. In the adoption contracts disinheritance is stipulated for a child who aggrieves (literally, "makes his heart sick") a parent.⁵⁶ Because of the terminology used for disinheritance we posited that that aggravation came into the same category of offense as absconding and failure to look after a parent. Here the very same terminology (*ina aplūtim nasāhu* "to be removed from heirship") is also employed, so we may speculate that the offense was perhaps a failure to perform some important filial duty to his father.⁵⁷ We must keep in mind that in many ancient societies responsibilities and obligations by a child, whether natural or adopted, was often enforced by law.⁵⁸

3. Syria 18, 249–50:14–26 [a last will and testament from Ugarit circa 14th century B.C.E. of a certain individual who leaves everything to his wife, one Bidawa. He also has two sons, and he makes the following stipulations concerning them.]

Now whichever of my two sons, Yatlimu, the elder, or Yanhamu, the younger, will stand in a legal case with Bidawa (*ša izziz ina dīni itti Bidawa*), or will treat Bidawa, their mother, with contempt (*u ša uqallil Bidawa ummašunu*), will be fined five hundred shekels of silver, and he will be disinherited (literally, "he will place his garment on the doorbolt," *naḥlaptāšu išakkanma ana sikkūri*), and he will have to leave (*u ipaṭṭar*). But whichever of them will show respect to his mother, Bidawa (*ša ikabbīt Bidawa ummašu*), to him she shall give the inheritance.⁵⁹

55 R. Haase, *Einführung in das Studium Keilschriftlicher Rechtsquellen* (Wiesbaden, 1965), 70.

56 See above, p. 38.

57 Cf., Driver and Miles, *Babylonian Laws*, 1:349.

58 Blidstein, *Honor Thy Father*, 183, n. 4.

59 Translated by J. J. Finkelstein in *ANET*³, 546, and by S. M. Paul, *Studies in the Book of the Covenant in the Light of Cuneiform and Biblical Law* (Leiden, 1970), 67.

The two sons are warned by the father, on pain of being disinherited, not to contest the will nor to treat their mother contemptuously. Conversely, treating her with proper respect will eventually be rewarded with the inheritance. The phrase used here for disinheritance is “he will place his garment on the doorbolt,” *naḥlaptāšu išakkanma ana sikkūri*. It brings to mind other symbolic acts we have met to denote disinheritance and annulment of contract, namely, “to wash the hands” and “to break the clod.” The laying down of a garment as a symbolic act of total severance⁶⁰ is attested in another Ugaritic document concerning the divorce of the queen of Ugarit by King Ammistamru II.⁶¹ Among the various clauses concerning the heir apparent is one which states that when the king dies he must not restore the divorced queen to Ugarit. Should he do so “let him place his garment on a stool [= the throne], and let him go wherever he wants” (*ṣubassu ina litti liškun ašar libbišu lillik*).⁶² This laying down of the clothes has been interpreted as going out symbolically “naked”,⁶³ that is, without anything; it is akin to the washing of the hands in the ceremony of disinheritance: the son is to go out “clean”, without anything.

It is significant that in this text the actual word for contempt is used. The Akkadian verb used, *qullulu*, literally means ‘to make light’, and in the legal sense it means making light of authority by willfully disregarding and disobeying that authority, in other words, to show contempt.⁶⁴ The meaning here is reasonably certain since the antonym of the verb *qullulu* is *kubbutu* ‘to show respect to’,⁶⁵ and this verb also occurs in our text in the phrase “whichever of them will show respect to his mother, Bidawa” (*ša ikabbīt Bidawa ummašu*). It is noteworthy that in the Hebrew Bible there are a number of passages dealing with abuse of parents in which the exact same verb appears in its Hebrew form, *leqallēl*, and it is to these passages that we shall now turn as we consider evidence for civil or status offenses in the Hebrew Bible.

c. Evidence from the Hebrew Bible

The material in the Hebrew Bible referring to civil or status juvenile offenses may be conveniently divided into three parts. The first contains those passages which include verbs meaning ‘to show contempt’ used with parents. The second is the famous incorrigible son case in Deuteronomy 21, and the third, the story of Elisha and the rude boys of Bethel in II Kings.

⁶⁰ Paul, *Studies*, 67.

⁶¹ *PRU* IV, 126–27.

⁶² Lines 38–39. Cf., lines 26–27 where the punishment is the same should the son decide to follow his mother in exile.

⁶³ Yaron, *Varia*, 182; *CAD*, S, 223.

⁶⁴ See above, p. 39.

⁶⁵ Cf., Muffs, *Studies*, 204, n. 141.

1. Texts containing verbs 'to show contempt'

Clauses containing the verb *leqallēl*, and its parallel *lehaqlōt* 'to treat with contempt'⁶⁶ together with parents are as follows:

a. In legal sections

1. Exodus 21:17

He who treats his father or mother with contempt (*meqallēl*) will be put to death.

2. Leviticus 20:9

If anyone treats his father or mother with contempt (*yeqallēl*), he shall be put to death. He has condemned (*qillēl*) his father and mother—his bloodguilt is upon him.

3. Deuteronomy 27:16

Cursed be he who treats his father or mother with contempt (*maqleh*).

b. In wisdom contexts

1. Proverbs 20:20

He who treats his father or mother with contempt (*meqallēl*), his lamp will be extinguished in pitch darkness [= he will be cut off].⁶⁷

2. Proverbs 30:11

There is the type who treats his father with contempt (*yeqallēl*), and does not bless his mother.⁶⁸

The Hebrew verb *leqallēl* is traditionally rendered as 'curse', but, as Brichto has convincingly shown, this meaning is often inapposite,⁶⁹ and a case can be made for translations such as 'dishonor', 'disrespect', 'treat with contempt', etc. For example, just as the Akkadian synonym *qullulu* has an antonym *kubbutu* 'to respect', so Hebrew *leqallēl* has an identical antonym *lekabbēd* 'to honor', 'to respect'. Indeed the antithesis of the injunctions in the legal sections is "respect (*kabbēd*) your father and mother" (Exodus 20:12). Of course the question remains as to just what this respect was and just what filial act of disrespect or dishonor was so egregious that only the supreme penalty sufficed. A number of possibilities have been suggested by scholars,

⁶⁶ See n. 35 above.

⁶⁷ Cf., McKane, *Proverbs*, 540–41.

⁶⁸ Cf., H. C. Brichto, *The Problem of "Curse" in the Hebrew Bible* (Philadelphia, 1963), 136.

⁶⁹ Brichto, *Curse*, 132–37. Contrast, M. Weinfeld, *Deuteronomy and the Deuteronomist School* (Oxford, 1972), 241, n. 2.

including not caring for parents in their old age, not giving them proper burial etc.,⁷⁰ possibilities which are actually documented in cuneiform legal material.

As far as non-legal texts are concerned, exhortations against contemptuous behavior towards parents are found a number of times in the Book of Proverbs. In addition to those already quoted containing the verb *leqallēl* there is, for example, "a wise son makes his father glad, but a foolish one despises (*bōzeh*) his mother" (Proverbs 15:20), and "listen to your father who begot you and do not despise (*tābūz*) your mother when she is old" (Proverbs 23:22).⁷¹ This is in accord with Wisdom literature in general, which warns against dishonoring, disrespecting, and disobeying parents. In extreme cases this contempt can include callous treatment of parents as, for example, in "a son who maltreats his father and evicts his mother is a source of shame and disgrace" (Proverbs 19:26), or "one who robs his father or mother and says 'there is no harm in it' is an associate of murderers" (Proverbs 28:24).⁷² Of course, material of this nature can be found in other wisdom literatures of the ancient Near East,⁷³ and may be illustrated in the famous Sumerian proverb which states: "a perverse child—his mother should never have given birth to him."⁷⁴

2. *The incorrigible son of Deuteronomy 21*

The classic case of juvenile delinquency in the Hebrew Bible is described in Deuteronomy 21:18–21. The text reads:

If a man has a disloyal and defiant son (*ben sōrēr umōreh*), who does not heed his father or mother, and does not obey them even after they discipline him, his father and mother shall take hold of him and bring him out to the elders of his town at the public place of his community. They shall say to the elders of his town, "This son of ours is disloyal and defiant (*sōrēr umōreh*); he does not heed us. He is a glutton and a drunkard (*zōlēl wesōbē*)." Thereupon the men of his town shall stone him to death. Thus you will sweep out evil from your midst: all Israel will hear and be afraid.

Most modern Bible scholars discuss this law in terms of its relationship to patriarchal authority, and show that the law came to curb the unlimited authority of the *pater familias* in ancient times.⁷⁵ The head of the household could no longer punish the defiant son himself, but had to bring him before the courts for punishment.⁷⁶ It was no longer possible, in their opinion, by the time Deuteronomy was written for a situation to occur like that in Genesis 38 when Judah, without resort to the courts, could pronounce a judicial sentence on his daughter-in-law, Tamar. The father's authority had by this

70 B. S. Childs, *The Book of Exodus* (Philadelphia, 1974), 418; A. Phillips, *Ancient Israel's Criminal Law* (Oxford, 1970), 81. For a comprehensive treatment of this question utilizing Rabbinic sources, see Blidstein, *Honor Thy Father*, *passim*.

71 Also Prov. 30:17.

72 Cf. McKane, *Proverbs*, 632.

73 Cf. Weinfeld, *Deuteronomy*, 278.

74 E. I. Gordon, *Sumerian Proverbs* (New York, 1968), 124, and cf. 119.

75 E.g. H. H. Cohn, "Rebellious Son," *Encyclopaedia Judaica*, (Jerusalem, 1971), 13:1603; H. J. Boecker, *Law and the Administration of Justice in the Old Testament* (London, 1980), 29–30.

76 Cf. G. von Rad, *Deuteronomy* (Philadelphia, 1966), 138.

time passed over to another institution, and just as it is forbidden to him in the case immediately preceding this one to transfer his inheritance from the eldest to a beloved son, so it is forbidden for him to take it into his own hands to judge his recalcitrant son.⁷⁷

a. *Legal basis for execution*

In determining the legal basis for the death sentence many commentators connect this section with Exodus 21:17 or Leviticus 20:9 ("one who treats his father or mother with contempt will be put to death") since, apart from the assault case, this is the only death law involving child-parent obligations.⁷⁸ The son is thus guilty of contempt and is to be executed.⁷⁹ The contempt charge is further brought out by an examination of the terms used in the text to describe the delinquent one. These are *sôrêr ûmôreh* "disloyal and defiant" or "recalcitrant and rebellious." Literally, the terms mean "one who deviates (from the proper path)" and "one who rebels." Both terms form a hendiadys to indicate a juvenile delinquent. Now when one examines how these terms are used in the Hebrew Bible one sees that they belong to the didactic vocabulary of biblical literature.⁸⁰ They generally connote disobedience, in particular in Israel's relationship to God.⁸¹ For example, in Psalms 78:8 the generation of the desert is termed *sôrêr ûmôreh*. Isaiah castigates the people for being *sôrêr* and following its own way (Isa. 65:2). Jeremiah proclaims that Israel has a heart which is *sôrêr ûmôreh* (Jer. 5:23). Israel is portrayed as rebellious and disloyal, and in so doing repudiating its God and its relationship with him.⁸² In like manner the son, by being rebellious and disloyal, has repudiated his parents and his relationship with them. The authority of the parents has been rejected by the son since he has refused to obey them. The son, in renouncing his relationship with his parents, has effectively declared, if not by his words, then certainly by his deeds, what the adopted son in the Mesopotamian adoption contracts says when he abrogates his contract, "I am not your son; you are not my parents."⁸³ In Mesopotamia, however, as we have seen, the penalty for such a revocation was only disinheritance or being sold into slavery. In Israel such conduct was considered grave enough to warrant the ultimate penalty. We note, in conformity with our modern definition of juvenile delinquency, that leniency is displayed for a first time offender. The phrase "even after they discipline him" implies repeated commission of the offense. We have met a similar leniency in the Code of Hammurabi §169, where a father may only disinherit his son for some grave offense committed twice, and in a

77 Cf. A. C. Freiman, "Ben sôrêr ûmôreh," *Encyclopaedia Biblica*, (Jerusalem, 1964), 2:161.

78 Paul, *Studies*, 66; C. Carmichael, *The Laws of Deuteronomy* (Ithaca, 1974), 168, 183.

79 E. Bellefontaine has objected that, if the death sentence was based on these texts, the actual terms would have been specified in the parents' accusation; "Deuteronomy 21:18–21: Reviewing the Case of the Rebellious Son," *JSOT* 13 (1979), 16.

80 Weinfeld, *Deuteronomy*, 303.

81 The pertinent references may be found in Bellefontaine's article (see n. 79) from which the present author has greatly profited.

82 Bellefontaine, *Case of the Rebellious Son*, 18.

83 *Ibid.*, 17.

private adoption contract from Nuzi which is to be considered null and void only after a third court appearance for willful disobedience.

b. *Second accusation 'glutton and drunkard'*

As well as being held in contempt of his parents, the son is also accused of being a glutton and a drunkard (*zôlêl wesôbê*). The addition of these terms has perplexed many interpreters. Some believe that they are merely the details of the conduct of the son, a short list of his anti-social deeds,⁸⁴ while others believe that the second accusation may be a gloss.⁸⁵ It certainly looks like it would be superfluous to bring in another accusation if the penalty for the first one (contempt) was death. Recently the argument has been advanced that the second accusation is the remains of an originally independent law dealing with thoroughly corrupt members of a clan or tribe who had to be exterminated from the group. Bellefontaine has adduced evidence pointing out that most tribal societies were confronted at one time or another with dissolute or non-conformist individuals who were deemed incorrigible.

Irreformable deviancy was almost always considered a crime and the criminal was put to death, thus ridding the community of his evil influence. . . . In such cases, and in others such as incest, witchcraft, and sacrilege, there was always the threat of divine vindication upon the group who failed to purge the evil-doer from its midst. . . . Without doubt the young man in our story is a "bad lot." His excessive eating and drinking ran counter to accepted social norms; this is implied in the accusation itself. Further, these particular vices suggest that he was a non-productive, non-contributing parasite in the community. . . . It is understandable that the elders of the place where he lived would condemn such a man to death.⁸⁷

Hence the second accusation reflects a custom in which a clan could rid itself of irreformable and dangerous social deviants. The phrase "you will sweep out evil from your midst" is the way the Bible sought to protect its society from incorrigible criminals.⁸⁸

There is some merit to this suggestion of an independent origin for the second accusation because elsewhere in the Bible the terms *zôlêl* 'glutton' and *sôbê* 'drunkard' appear together, independently of *sôrêr ûmôreh*. Thus in Proverbs 23:20-21 we read: "Do not keep the company of drunkards (*sôbê'ê yâyin*) nor gluttons (*zôlelê bâšar*), for the drunkard and the glutton (*sôbê' wezôlêl*) are impoverished." It could well be that the phrase "glutton and drunkard" (*zôlêl wesôbê*) was another stock term, like "disloyal and defiant" (*sôrêr ûmôreh*), for a juvenile delinquent.⁸⁹ The expression would then

84 E.g., S. R. Driver, *Deuteronomy, ICC* (Edinburgh, 1895), 247-48.

85 Driver and Miles, *Babylonian Laws* 1:349, n. 3.

86 Bellefontaine, *Case of the Rebellious Son*, 20.

87 *Ibid.*, 21-22.

88 Frieman, *Ben sôrêr ûmôreh*, 161.

89 McKane, *Proverbs*, 388.

epitomize the son's corruption,⁹⁰ and be considered the normal way a juvenile delinquent acted.⁹¹

C. *Significance of both accusations*

Against separating the two accusations is the fact that the association of contempt with gluttony and drunkenness has been considered integral from ancient to modern times. Thus, for example, the first century Jewish philosopher Philo demonstrated their interrelationship in an elaborate discussion on the behavior of the incorrigible son. In his opinion, of the four accusations, the last one, drunkenness, emerges from the first one, disobedience.⁹² In modern times the behavioral traits of the incorrigible son have been studied by two psychiatrists who concluded that the association of disobedience and rebelliousness with gluttony and drunkenness aptly describe the modern psychiatric category of a psychopath or anti-social personality.⁹³ According to these psychiatrists:

We have in this biblical example of the "stubborn and rebellious son" a kind of diagnostic category which describes a character and behavioral condition which was not regarded as either normal or as insane. The condition did not exempt from punishment, but did require special procedures for proof and definition. In this respect the biblical "stubborn and rebellious son" closely resembles . . . our present day category of "character disorder, psychopath or antisocial personality."⁹⁴

The psychiatrists conclude with the observation that "it appears to us reasonable to speculate that the personality disorders subsumed under these various rubrics—from biblical times to modern day psychiatry—are essentially the same."⁹⁵

In addition to this psychiatric testimony we note further that the description of the son as a glutton and drunkard ties in nicely with one of the old clauses of the State of California's definition of a juvenile delinquent—prior to its being held unconstitutional by the courts—that a juvenile delinquent was one "in danger of leading an idle, dissolute, lewd, or immoral life."⁹⁶

d. *Rabbinic interpretation*

The danger of a juvenile delinquent leading such a life had already been recognized by the traditional Jewish commentators. For example, the rationale given in the

90 M. Greenberg, "Drunkenness," *Interpreter's Dictionary of the Bible*, (Nashville-New York, 1962) 1:872.

91 McKane, *Proverbs*, 388. It should be noted that in general sapiential writings commend the virtue of moderation and restraint against drunkenness, gluttony, and inordinate desire; Weinfeld, *Deuteronomy*, 303, n. 5.

92 "Disobedience, contentiousness, participation in riotous feasting and drunkenness. But the last is the chief, rising to a climax from the first, disobedience." F. H. Colson and G. H. Whitaker, *Philo*, Loeb Classical Library (London, 1930), 3:325.

93 M. Rotenberg and B. L. Diamond, "The Biblical Conception of Psychopathy: The Law of the Stubborn and Rebellious Son," *Journal of the History of the Behavioral Sciences* 7 (1971), 29–38.

94 *Ibid.*, 37–38.

95 *Ibid.*, 38.

96 See above, p. 32.

Mishnah for imposing the death penalty on the incorrigible son is that this is one of those cases whereby someone is punished, not for what he has done, but for what he might do.⁹⁷ According to the Mishnah's interpretation of the biblical passage one of the son's offenses is that of stealing from his father.⁹⁸ Now stealing from one's father inevitably leads to stealing from others, which is robbery. Robbery leads to violence, and violence in turn leads to murder. It is better to apply preventive punishment now rather than wait for more serious damage to be done.⁹⁹ or, as the Midrash puts it: "it is better that you kill one soul and not many."¹⁰⁰

But, from the ensuing discussion in the Talmud, there is absolutely no doubt that all this was only theory. The passage concerning the delinquent son was held to be purely didactic, for educational and deterrent purposes only, and had no practical application.¹⁰¹ This is seen from the innumerable restrictions and qualifications necessary for a possible indictment. The child must be a male of a certain age, thirteen years and one day, and he is only liable from the advent to the attainment of puberty. As the Mishnah puts it, "from the time two pubic hairs emerge until he sprouts a beard."¹⁰² That there should be no question of ambiguity as to what a 'beard' means in this context, the Mishnah clarifies the matter stating "it is the lower (beard), not the upper (beard), for the sages were just speaking euphemistically."¹⁰³ According to the Babylonian Talmud this involves a period of three months,¹⁰⁴ according to the Palestinian Talmud six months.¹⁰⁵ The son's offense is clearly outlined: he has to steal from his father, and with the proceeds consume large quantities of meat and drink in the company of other wastrels.¹⁰⁶ Furthermore—and this qualification makes the indictment almost impossible—both parents must not have any physical handicap, that is, be blind, dumb, deaf, or crippled, nor be physically dissimilar, for example, be of different height, girth, nor even have a different quality of voice, and they both must be willing to indict their child.¹⁰⁷ Then, of course, the child has to have been a repeat offender and to have been repeatedly warned by the courts.¹⁰⁸ It is not surprising, therefore, that the general opinion was that "there was never such a thing as a 'disloyal and defiant son'," ¹⁰⁹ meaning that there was never anybody who met the conditions necessary to be convicted for being a disloyal and defiant son.

97 Mishnah *Sanhedrin* VIII:5.

98 Ibid., 3.

99 Ibid., 5: "he should die while innocent; let him not die guilty."

100 D. Hoffman, ed., *Midrash Tannaim*, (Berlin, 1909), 2:131.

101 BT *Sanhedrin* 71a, "Why then was the law written? That you may study it and receive reward." Cf. Cohn, *Rebelious Son* [see n. 75], 1603.

102 Mishnah *Sanhedrin* VIII:1.

103 Ibid.

104 BT *Sanhedrin* 69a.

105 JT *Sanhedrin* 8:1.

106 Mishnah *Sanhedrin* VIII:2.

107 Ibid., 4.

108 Loc. cit.

109 BT *Sanhedrin* 71a. But Rabbi Jonathan stated that he had seen such a case and even sat on his grave (ibid.).

3. *Elisha and the rude boys of Bethel*

The final piece of evidence concerning juvenile delinquency in the Hebrew Bible is in 2 Kings 2. The prophet Elisha, on his way to Bethel, is accosted by a throng of children who jeer him and call him “baldy.” Elisha curses them whereupon some bears come out of the woods and maul the children. Verses 23–25 read as follows:

From there he went up to Bethel. As he was going up the road, some little boys came out of the town and jeered at him, saying, “Go away, baldhead! Go away, baldhead!” He turned around and looked at them and cursed them in the name of the Lord. Thereupon, two she-bears came out of the woods and mangled forty-two of the children. He went on from there to Mount Carmel, and from there he returned to Samaria.

This action by Elisha, and the ensuing cruel punishment, has troubled both ancient and modern commentators alike. Both groups interpret the story as a fable. Arising out of the discussion of this passage in the Talmud,¹¹⁰ two of the terms used in the story have entered the later language as an idiom connoting an imaginary tale or a complete fabrication. Thus the Hebrew phrase *lō’ dubbim welō’ ya’ar* literally means “no she-bears and no forest,” and describes something completely imaginary, a cock-and-bull story. There were really no she-bears, nor was there really a forest, it is all made up!

In the same vein modern scholars have interpreted the story as a *Bubenmärchen* (literally, a boys’ folktale), a type of folktale used to frighten the young into respect for their elders.¹¹¹ The question that concerns us is: are these boys juvenile delinquents? Mere taunting of prophets or others does not appear to us as delinquency, but the author of the story, and presumably his listeners, may possibly have thought it a grave enough offense—even if only fictional—to warrant such a severe penalty. In this respect it parallels the severe penalties which were stipulated for showing contempt to parents. Apparently contempt of parents has to be interpreted in its widest sense as contempt of elders in general, which would then certainly include such authority figures as prophets.

4. *Conclusion*

There are a number of similarities and differences between juvenile delinquency in the ancient Near East and modern times. The first difference is that in modern times a juvenile delinquent is defined as one below a certain age, whereas in ancient times delinquency was not defined by age but by the fact that the child committed anti-social acts while still under the parents’ authority, presumably while still living in the parents’ home. The second difference is that truancy, a social problem in our day and constituting delinquency, was not a problem in ancient times because there was no universal education. The third and sharpest difference is in the area of criminal law. Contrary to modern policy there was no special protection granted to juveniles in criminal cases. In fact, in some of the felony cases examined, a juvenile received a more severe penalty than an adult would have received in comparable case.

¹¹⁰ BT *Sotah* 46b–47a.

¹¹¹ J. A. Montgomery, *Kings*, ICC (Edinburgh, 1951), 355; Brichto, *Curse*, [see n. 68], 175.

The similarities are in the area of civil or status offenses. Much of our evidence from Mesopotamia comes from adoption contracts which spell out in detail the expected duties of the adoptee with respect to his or her adopted parent. It can reasonably be assumed that the situations described in these tablets reflect similar situations with respect to natural parents as well. A common denominator of juvenile delinquency in most of the cases is that of contempt to parents, which represents a break-down in the normal relationship between a parent and child. This contempt could take a number of forms including willful and repeated disobedience of parents and completely rejecting their authority. This parallels the modern definition of a juvenile delinquent as one who is "incorrigible, ungovernable, or habitually disobedient.

Two other parallels may be noted. The first is that the head of the household does not have unlimited authority over his family, and should he contemplate action against his child, he has to go to the courts for relief: he cannot act unilaterally. Secondly, the concept of the delinquent as a repeat offender is one which we have noted from many examples. Both of these parallels come to the fore in the classic case of juvenile delinquency in ancient literature, that of the incorrigible son in Deuteronomy. There we noted that the inclusion of the additional accusation of the son being a glutton and a drunkard not only fits some modern definitions of a delinquent as being "in danger of leading an idle, dissolute, lewd, or immoral life," but with it constitute behavioral traits which have been held to aptly describe the modern psychiatric category of a psychopath or antisocial personality.