CHAPTER TWO
THE QUALIFICATIONS OF WITNESSES

1. The Law of Witnesses

The judges spoken of in the last chapter were not the only personae involved in the judicial process. While it was important to ensure that members of the judiciary met the requirements of the law, it was equally crucial that witnesses conformed to the rigid qualifications of the sectarian law. These qualifications are intended to ensure the reliability of the witness and include the requirement of membership in the sectarian community. The primary text for our inquiry will be CDC 9:23–10:3:

אֵלֶי יַקְבָּל בְּנוֹת לְשׁוֹפְטָאָם לְפַרְשֵׁהּ עַל פְּשָׁם אָשֶׂר לֹא מִלְּאָה יִמְּי לֶעַבְרָה
עַל הוֹפָקְדוֹת יֵרָא אָתָא לֹא אָל יֵאָסֶא עַל רַעֲשָׁה לִפְדָּה לִפְדָּה דָּבֶר מָן

Let no witness/1/ be accepted by/2/ the judges to put (someone) to death by his testimony,/3/ whose days/4/ are not sufficient/5/ to pass among the mustered/6/ (and who is not)/7/ God-fearing./8/ Let no man be trusted/9/ against/10/ his neighbor as a witness, who violates any of the commandment(s)/11/ intentionally,/12/ until (his deeds) have been purified/13/ (sufficiently for him) to return./14/

The first part of this passage provides that in capital cases no one below the age of mustering and who is not “God-fearing” may serve as a witness. The second part of the text requires that no one who intentionally violates any of the commandments be accepted as a witness until his repentance is complete. Each of these aspects requires extensive clarification in order to understand the attitude of the sect towards the qualifications of witnesses. The scholarly controversy regarding the testimony of women at Qumran will also be treated in this chapter.

2. Minimum Age of Witnesses

In view of the fact that the manuscript reads 'od, “still,” and that the first part of the law mentions judges, it might be proposed that the text deals with the requirements for judges. Understood in this way, the translation would read: “Let there not be accepted any more as judges to put (someone) to death by his sentence. . . .”

This interpretation is not plausible, however. First, the law of judges is explicitly stated elsewhere in this document, and it is not characteristic of this text to repeat itself in such matters. Second, the law immediately preceding
this one is the extensive law of testimony (CDC 9:17-22), and the second part of this passage also deals with witnesses. It would be hard to believe that a short passage regarding judges would have been sandwiched between material relating to witnesses. Third, the age of mustering mentioned here differs from the age elsewhere (CDC 10:6-9) established for judges. Even more telling, it is lower than that established for judges (age twenty-five) in CDC 10:6-9, a passage which applies to both capital and non-capital cases. Finally, in such a view it becomes difficult to integrate the word ‘od. At best, this statement would then have to be understood as an amendment to a previous law that had once allowed younger judges. Now, however, they would henceforth be prohibited—a strange statement, to say the least. It is therefore certain that this law deals with the ages of witnesses and that it must be emended accordingly.

The first requirement of the witness in capital cases is that he will have passed the age of mustering. Use of the phrase la-avor ‘al ha-pequdim proves unquestionably that the age being described is twenty, for this phrase in the Pentateuch always refers to age twenty (Ex. 30:14; 38:26).//15// Twenty was the minimum age for military service in biblical times, according to Scriptural reports.//16// The sect did not envision military service to begin until twenty-five, and, indeed, this was the minimum age for service in the judiciary.//17// Even when the sect, by a somewhat farfetched exegesis, transformed the minimum age into twenty-five, they avoided using the clause la-avor ‘al ha-pequdim in this connection, since it could denote no age other than twenty.//18//

That twenty is intended in CDC 9:23-10:3 is confirmed in 1QS a 1:9f:

And when he is twenty years old he shall pass among the muster ed to enter into full status/19// along with/20// his family, /21// to join/22// the holy congregation.//23//

But this passage confirming the age of twenty as the age of mustering raises another question. What was the mustering for if not for military purposes? There can be no question that the sect saw itself as preparing—or better, in a state of perpetual preparedness—for the final eschatological battle. For this reason, much of its organizational structure is built along military lines. Yet in the law before us, the sect’s “peacetime” organization differed from its military structure. Even though twenty-five was established as the minimum age for military service, the traditional twenty was retained as the minimum age for full-fledged membership in the sect. The rights of testimony, voting in the sectarian assembly, and, as will be seen below, marriage were conferred with the attainment of this age. Mustering, then, referred to the system of governance and authority which the sect maintained in the present, pre-eschatological age.

The age of mustering is once again encountered in CDC 15:5f. where it is stated:
This passage discusses the transition from the status of the child of a sectarian to that of an independent sectarian. At the age of twenty, which is known to be that at which mustering occurred, the sons of the members of the sect could themselves become members with full privileges, provided they swore the oath of the covenant in which they took upon themselves the obligation to follow both the sectarian interpretation of the Torah and the various ordinances of the group.

The question might arise as to whether this passage refers only to males, as it has been translated here, or to females as well. It will be seen below that the context of the passage quoted from the Serekh Ha-Edah certainly favors understanding this law as referring only to males. Further, the mustering of the Pentateuch applied only to males, and it is most probable that this was the case at Qumran as well.

What was the position of women? It appears that the status of women in the sect (on which more will be said below) was determined only insofar as their husbands took on membership. Women whose husbands were part of the sect, and girls whose fathers were members, were considered members by virtue of this status.

Indeed, the same was the ruling of biblical law regarding the priest and his family, as to whether they could eat of the various priestly dues. The Torah specified (Num. 18:11f. and 18:25–32) that the household of the priest could share in the eating of the priestly dues (terumot). Further, even the slaves of a priest were to eat of these dues. But when a priest’s daughter married a non-priest, her rights to these offerings ceased. If she were childless and, due to the death of her husband or divorce, she returned to live in her father’s house, she again could partake of the terumot (Lev. 22:10–14).

Comparison to the laws of terumot is especially relevant since it is known that the sect, like the Pharisaic havurah, endeavored to fulfill the purity laws relating to the eating of terumah by the priests even in eating their regular, everyday victuals. Tannaitic halakhah regarding the havurah also dealt with the question of family members. It was only the male head of the household who became a haver, and the rest of his family derived their status in turn from him. Once a man had accepted his obligations as a haver before the members of the havurah, probably represented by a court of three of its members, he then could represent the havurah in “swearing in” his family. On the other hand, if children were born to him once he had joined, they automatically received the status of haver. If a haver married the daughter of an ‘am ha-ares, however, she had to undertake her
new status before the *havurah* (or its three representatives).\(^31\) The only essential difference between this practice and that of the sect is that in the case of minors coming of age, the sect required an oath, whereas the *havurah* of tannaitic sources required public acceptance of the regulations of the *haeverim*.

The phrase *be-tokh mishpahto* in our passage from 1QSa 1:9f. is susceptible to two interpretations. The first is that the twenty-year-old, still not married and not yet constituting an independent household, remains under the authority of his family, even when he attains independence within the sect, until such time as he should marry. After all, 1QSa 1:10f. (which will be discussed below) prescribes twenty as the minimum age for beginning family life.

Another possibility—and one which appears more attractive—is that from twenty, since it is expected that the young man will soon marry, he (and his family) will attain full status in the sect. The text would then be emphasizing that just as he, as the child of a (perhaps first-generation) sectarian, had automatically been able to join the sect without the need to pass through the novitiate, so the same privilege would be accorded to his family. Further, if he were to marry a woman whose family was not of the sect, she would automatically be granted the appropriate status upon their marriage. The parallels in biblical and tannaitic sources to this interpretation have already been treated.

J. Liver/\(^32\) has noted that according to 4Q Ordinances 2:6–9 it was at the time of passing his first mustering that the now mature sectarian would give the half *sheqel*, as a once in a lifetime offering:

\[
\text{כָּפָרּ קַרְשַׁרְכֶּם אָשֶּר נָהָגָה אִשֶּׁר כִּפָּרְנָה מַצִּיחָה (הָשָׁלָל תּוֹרָה לְאָדונֵי)}
\[
\text{רָכָּל סָעָם אַחַת יָחוֹן כִּלְוָּיִּים}
\]

As to the money of valuation which they gave, each as an atonement for himself, a half *sheqel* as an offering to the Lord, he shall give it only once in his entire lifetime.

While this passage could take us far afield in relation to the biblical exegesis behind it, it should be noted that the sect understood Ex. 30:11–16 to refer only to the first mustering at age twenty. Only the first time did the male have to offer the half *sheqel*.

3. The Age of Twenty in Jewish Sources

L. Ginzberg has argued that the minimum age of twenty for witnesses in capital cases is a reflection of early Jewish law according to which the age of legal majority was twenty, not thirteen as in later Jewish practice.\(^33\) Whether this is correct or not, it is certainly true that the age of twenty plays a major role in Jewish legal sources.

Tannaitic *halakhah* assumed that majority took place at puberty. According to the House of Hillel, puberty was assumed to take place
between the twelfth birthday and the twentieth for females and between the thirteenth and the twentieth for males. The House of Shammai took eighteen as the maximum. Rabbi Eliezer suggested a compromise, namely that eighteen be accepted for females and twenty for males./34/ Rabbi Judah the Prince is said to have accepted eighteen as the maximum./35/ To the tannaim, then, all laws involving active observance had to be undertaken at the age of thirteen and one day for boys and twelve and one day for girls./36/ This would ensure that no adult (beyond puberty) who was obligated to observe the commandments would delay beyond the required point.

On the other hand, the Rabbis believed that some did not reach puberty until twenty. Hence, it was not possible to be entirely certain of majority until twenty. Indeed, Rabbi Judah the Prince required a minimum age of twenty for partaking of sacrifices (qodshe mizbeah), serving as precensor, and reciting the priestly blessing. This ruling is suggested by Ezra 3:8 which specifies that Levitical service was to begin at twenty./37/ Several amorai passages state that the heavenly court does not punish anyone below the age of twenty./38/ Since below that age it is possible that physical majority has not been reached, the heavenly court gives the benefit of the doubt./39/

The Book of Jubilees 49:17 understands the obligation of eating the paschal lamb to begin at age twenty. C. Tchernowitz/40/ explains that the author was no doubt guided here by the use of 'ish in Ex. 12:4 which he understood to refer only to one above twenty, basing himself on biblical precedent. Indeed, a somewhat damaged but still legible passage in TS 17:8 likewise fixes the start of the obligation to eat of the paschal lamb at twenty years of age. Rabbinic law./41/ however, allowed a child to eat of the paschal lamb as soon as he could eat the required minimum./42/ Tannaitic tradition in B. Hullin 24b reports that the priests in the Temple imposed their own requirement that officiating priests be at least twenty years old. Such a practice may lie behind 2 Chron. 31:17. At the same time, it is known from Ant. 15, 3, 3 (51) and War 1, 22, 2 (437) that Aristobulus III was appointed by Herod as high priest at the age of seventeen.

Ginzberg and Rabin cite P. Sanhedrin 4:7 (ed. Krot. 4:9, 22b) which states that judges in capital cases must be at least twenty years old./43/ Yet this statement sheds little light on the requirements for witnesses. Due to the juxtaposition of the discussion of the disqualification of witnesses and judges in M. Sanhedrin 3:1, it could conceivably be possible to construct an analogy between the ages of judges and witnesses in Rabbinic tradition. However, such an analogy cannot be sustained for the Qumran materials, wherein there is evidence that the required age of judges was at least twenty-five./44/

The context in the Palestinian Talmud shows that the concern of the amoraim was to exclude one who fails to attain sexual maturity. Since at twenty one still might be unsure of sexual maturity (majority), such an age requirement is proposed. This amorai statement specifically indicates that money matters (dine mamonot) are not covered by it.
Two statements of Anan ben David have been taken by Ginzberg to indicate that Anan understood the age of majority to be twenty.\textsuperscript{45} In one passage Anan says that one who enters a synagogue inebriated and is above twenty is "guilty of a capital crime."\textsuperscript{46} Most probably this simply refers to his being guilty of an offense deserving death at the hands of Heaven, which, we have seen in the Talmudic view as well, begins only upon the age of twenty, when it can be assumed with certainty that physical majority has been reached.

It is also stated by Anan that contact with an unclean animal does not render a person impure unless he is at least twenty years old.\textsuperscript{47} The actual nature of this contact is eating,\textsuperscript{48} as can be seen from Lev. 11:40 which Anan is here interpreting. The reason for the age of twenty is clear. Again, from this age maturity can be assumed, and, hence, responsibility for this offense. It is therefore not surprising that later Karaites do not adopt the view of Anan,\textsuperscript{49} as he never intended it as a definition of legal majority, only as the age for which a person was held responsible for his offense.

Philo adapts a series of three seven-year periods in which maturity gradually takes place. By seven a child has recognized reason and speech, by fourteen reproductive power, and by twenty-one completes his growth.\textsuperscript{50} This clearly Hellenistic typology is simply too general to be understood as having any legal ramifications.

4. Moral Qualifications for Witnesses

The second qualification for a witness in a capital matter is that he be yare' \textit{et 'el}, "God-fearing." While this term seems at best to be ambiguous, it specifies an exact requirement. In CDC 20:15–22 there appears a pesher-like passage which is based on Mal. 3:16–19. The phrase \textit{yire 'adonai} in that passage is transformed, in order to avoid the use of the Tetragrammaton,\textsuperscript{51} into \textit{yire ['el}. From the context it is clear that the God-fearers of the Zadokite Fragments are the members of the sect.\textsuperscript{52} If so, the second requirement of our passage is that the witness in capital matters be a member of the sect.

An important consideration is whether or not non-members of the sect would have been accepted as witnesses in monetary matters. Although there is no way of solving this problem on the basis of this passage, the strict regulations limiting financial contact between the sectarianists and other Jews of Palestine\textsuperscript{53} make it doubtful that non-members of the sect could be accepted as witnesses in such cases. If so, why does this passage specify that witnesses in capital matters must be members of the sect? Such a provision would seem to imply that the testimony of non-members was accepted in financial matters. This contradiction is best resolved by the assumption that those who were in the various stages of the novitiate were permitted to serve as witnesses in financial matters, while only those who had been accepted as full-fledged members of the sect might testify in capital matters.
The third provision of this passage is that no one who has intentionally transgressed any of the commandments may serve as a witness until his deeds show evidence of repentance. It has been demonstrated elsewhere that *miswah* (commandment) is a technical term for the sect's law as derived through Scriptural exegesis./54/ No one who purposely violated any of the laws so derived might serve as a witness against a fellow member unless he had purified himself through repentance sufficiently to return to normal participation in the activities of the sect. It should be remembered that all intentional violators of sectarian law were forbidden certain regular functions of the sect for specified periods of time./55/

What if a member violated a clear law of the Torah, part of the *nigleh* ("revealed")?/56/ Should it be assumed that such a person could participate in legal proceedings as a witness against his fellow? Certainly not. It was an *a priori* assumption that a person who violated laws of the revealed Torah could not bear witness. After all, the entire framework of trust was based on allegiance to Scripture. One who through his actions showed disregard for the Law, could not possibly be trusted as a witness in the view of the sect.

Josephus, in his brief outline of the laws of the Torah, notes that no one should be accepted as a witness unless his testimony is confirmed by his past life./57/ In other words, witnesses are to be accepted only if they live in accordance with the Torah.

Rabin cites the tannaitic regulation excluding certain classes of transgressors from bearing witness./58/ Essentially, these exclusions cover only those about whom one has special reason to doubt their honesty. Most prominent are professional gamblers who have no other occupation. Yet this is not really a parallel to the sectarian law as the sect excluded all purposeful transgressors from testimony.

Since most cases tried involved laws contained in the *nigleh*, "revealed," known to all Israel, one might think that observance of the *nigleh* would qualify one as a witness in the sectarian court. This passage tells us that this is not so. One must also observe the *miswah*, equivalent to the *nistar* or "hidden" law, of which only the sect had the correct interpretation. The text excludes members who have gone astray. Once repentance was attained, however, the right to bear witness was recovered along with the other sectarian privileges.

Already in amoraiic times there is evidence of a tendency to widen the tannaitic restrictions to exclude from testimony those who had violated the law./59/ Ultimately, medieval codification would rule that all purposeful violators of commandments would be excluded from serving as witnesses./60/ This is not the first time in which close parallels have been found between sectarian legal practice and post-Talmudic *halakhah*.//61/ There is no way of telling if these result from parallel tendencies or from even indirect influence of some kind.

Tannaitic *halakhah* required definite proof that those disqualified from testifying had repented before they were once again allowed to bear witness.
The examples given in the Tosefta involve the offender’s destroying the tools of the trade or crime which has disqualified him. For example, the professional gambler is expected to destroy his dice. Such an act unquestionably demonstrates his repentance.

Since the sect had a complex system for regulating the actions of its members, it is certain that they likewise would have waited for an offender to demonstrate through his actions that he had fully repented before his testimony would be accepted. After all, in Judaism repentance is not simply a feeling of contrition or even a decision to suspend transgression. It is a form of action whereby one shows his ability to desist.

The Testimony of Women

It is now time to turn to the controversial passage in 1QS a 1:9–11 which has been taken by some as indicating that women were admitted as witnesses in the legal system of the sect:

The first part of the passage may be translated as follows:

He shall not [approach] a woman to have sexual relations with her until he reaches the age of twenty years at which time he knows good and evil.

Considerable conflict, however, surrounds the text and translation of the second part of the passage. The first editor of the fragment, D. Barthélemy, understood the text to indicate that the women were entrusted with ensuring the faithfulness of their husbands to the sect’s way of life. In accordance with this view, N. Richardson translated the second part:

And at that time she will be received to bear witness of him (concerning) the judgment of the law and to take (her) place in proclaiming the ordinances.

J. M. Baumgarten has raised several objections to this interpretation of the text. First, he notes that the context is one which clearly refers to males. Second, he finds it difficult to understand how a wife’s eligibility to testify could be tied to the age of her husband. Third, he cannot see how the authors of the document (which Richardson assumed to be “marrying Essenes”) would have given women the “dominant function of participating in the judicial proceedings of the community and acting as witnesses against their husbands.”

In response to Richardson’s claim that there is no biblical injunction against women’s testimony and that there is no reason to force the Qumran documents to conform to other systems of Jewish law, Baumgarten notes that women’s testimony was also inadmissible in Athenian and Roman law and that this was the “tenor of the times.” Indeed, according to
Baumgarten, Josephus attributes the disqualification of women as witnesses to the law of Moses./76/ Accordingly, Baumgarten emends *tqbl* to *yqbl* and *‘lyw* to *‘l py. He then translates:

> And he shall be received to testify in accordance with the laws of the Torah and to take [his] place in hearing the judgments./77/

He interprets the latter part of the text to mean that twenty is the minimum age also for attending hearings in court. Such observation of judicial procedures, in his view, has a parallel in M. Sanhedrin 4:4 in which the students of the sages are pictured as sitting in front of the court during the sessions of the Sanhedrin.

6. Twenty as the Age of Majority at Qumran

While Baumgarten’s emendations and interpretations of the passage are certainly attractive, two alternatives should be mentioned. Regarding the emendation of *‘alaw* to *‘al pi* it is also possible to retain the text as is and to understand the passage to indicate, as does Licht, that from age twenty it is possible for charges to be brought against him./78/ In other words, the liability to be tried would begin at twenty. This would fit well with the role of twenty as the final passage from minority to majority in various Jewish legal sources. Once he was definitely of majority, he could be punished according to the sect’s view.

Licht’s view may be supported by reference to CDC 15:12f.:/79/

> נכארש יקים אוהי שלימ לשב אל חורת משא בכך יוכל ווכל נפש

But when he takes it upon himself/80/ (with an oath) to return to the Law of Moses/81/ with all (his) heart and with all (his) soul,/82/ w[e] may [exact] punishment/83/ from him should he transgress./84/

This law, as restored above, refers to the newly recruited sectarian who is liable to punishment according to the sect’s regulations only once he takes on the obligations in an oath. This oath takes place, according to the Zado-kite Fragments, after examination by the mevaqqer (CDC 15:11).

The text discussed here is part of a larger unit, CDC 15:5–13, which concerns entry of new members into the sect. Whereas the first part discusses those born into the sect (ll. 5f.), the remainder of the text is devoted to outsiders seeking admission. The use of *we-khen* (l. 6) shows that the law for both groups is essentially the same./85/ In both cases, the oath taken is for the purpose of rendering the swearer liable to the sect’s penal system. Indeed, the same technical use of the *hif’il* of *qwm* in the sense of “to take upon oneself an obligation by oath” is present in both texts. Yet it has already been shown that the oath for born members takes place at twenty, and it seems from the text now before us that this oath is for rendering them liable. If so, it would be logical to understand 1QSa 1:9–11 likewise to
refer to the fact that the born sectarian, after reaching the age of twenty (and taking the oath described in CDC 15:5f.) would now be liable to be testified against, and thereafter, to be punished by the decree of the sectarian court.

An alternative can also be posed to Baumgarten’s assumption that from twenty it was possible to join the students who assembled at the court. Licht has proposed that the reference here may be to some kind of periodic covenant renewal ceremony which the sect believed would occur in the end of days. Indeed, such a ceremony probably occurred in the life of the sect as a regular annual event./86/

In accord with Licht’s view, then, the passage would be translated:

And he shall be liable to testimony against him (regarding) the laws/87/ of the Torah/88/ and to take [his] place when the laws/89/ are proclaimed./90/

One other peculiarity of this passage must be discussed. It characterizes the age of twenty as that in which marriage and sexual relations are first permitted. Further, it says that this is the age of the knowledge of good and evil. The knowledge of good and evil as a biblical motif, especially in regard to the Garden of Eden story, has been the subject of extensive discussion. While G. W. Buchanan sees the motif as indicating maturity generally,/91/ R. Gordis has argued for taking this phrase as referring to sexual maturity./92/ While it is not in the domain of this study to determine the original meaning of this expression in the Hebrew Bible, it must be stated that Gordis is undoubtedly correct when he states that the passage under discussion here has adopted the very same interpretation as his. To the author of this Qumran document, knowledge of good and evil means sexual maturity, and when such knowledge comes at twenty, a man is ready to marry and begin sexual relations./93/

Why is twenty presented as the age of sexual readiness? It is undoubtedly the case that the sect, as did the tannaim later on, took the view that by twenty puberty certainly had occurred. They, therefore, were ensuring with this law that child marriage, at least for males, would not take place. This ruling may have been part of the sectarian tendency toward the regulation of sexual life. According to Josephus, the marrying Essenes allowed themselves sexual relations only to avoid the depopulation of the world./94/ According to the tannaitic sources, some groups of hasidim greatly minimized sexual life./95/ Some Essenes apparently took a negative view of sexual life as did some Christians later on./96/ Perhaps the sect shared these tendencies and wanted to ensure that male sectarians would not participate in sexual relations before it was definite that they had attained procreative ability. Hence, they did not allow relations until twenty.

This view is in marked contrast to that of the tannaim who permitted early marriages and who favored marriage at eighteen./97/ Further, the tannaim saw it as a transgression to delay marriage beyond twenty./98/
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The connection of the marriage age and the ability to testify can now be understood. In both cases, the sect sought to be certain beyond any doubt that the candidate had physically reached the stage of majority. The only way to be certain, they believed, was to insist on the age of twenty, regarded as it was as the latest age of puberty normally possible.

7. Summary

According to sectarian law, the minimum age for witnesses was twenty, and this was also the age of mustering, and attainment of the rights of voting and marriage. Twenty was viewed in ancient Judaism as the age by which puberty, hence majority, was always completed in normal cases. At this age the children of sectarians became full-fledged members of the sect upon taking the oath of initiation. Families were accepted along with the husbands. The acceptance of the husband meant automatic status for the family within the sect. A twenty year old was required to donate the half-sheqel as a one-time offering. No one except a member of the sect could testify before the sectarian courts, nor could anyone who was known to intentionally violate a law derived by the sect through the medium of sectarian biblical exegesis. Despite claims to the contrary by some scholars, the testimony of women was not admitted at Qumran.

NOTES

/1/ Reading ‘d (‘ed) with Schechter and Rabin. The error can be explained as the result of the fact that the adverb “still” can be spelled ‘wd or ‘d. At some point in the transmission of the text, a scribe was confused and thought that the letters ‘d (which should have been read ‘ed, “witness”) represented the adverb. He therefore wrote it in the usual orthography. The possibility that we are dealing with the confusion of waw and yod at an early stage in transmission (Qumran manuscripts do not usually distinguish the two) must be rejected here as there is no attestation for “witness” spelled plene.

/2/ The pu‘al of qbl does not occur in the Bible but is used in the participle in Rabbinic sources. The pi‘el is followed by an infinitive in Est. 9:27 and 2 Chron. 29:16. The pi‘el is followed by the preposition l- in 1 Chron. 21:11. With the exception of the pu‘al, then, the language of our phrase can be attested in late biblical Hebrew. Cf. helqam lo’ yeqbal lefanekha in Rashi to Num. 16:15 (based on Midrash Tanhuma' Korah, sec. 6 (73b), ed. Buber, sec. 18 (45bf.); cf. Be-Midbar Rabbah 18:10, but the language of Rashi is not prefigured in these sources). The preposition is the lamed of reference, construed with passive verbs (BDB, 514a, sec. e).

/3/ Translating with new JPS to Deut. 17:6; 19:15. Num. 35:30 uses le-fi instead of 'al pi. On the Qumran interpretation of these passages, see below, 74–78.

/4/ Perhaps “years.” See BDB, 399b, sec. 6c.

/5/ Rabin notes that 1 Chron. 17:11 is the only use of ml' followed by the pl. of yom regarding age. 2 Sam. 7:12 contains the same text. Referring to CDC 10:6,
regarding judges, Schechter, followed by Segal, assumed that this meant twenty-five. In light of the almost verbatim citation of Ex. 30:13f., this cannot be accepted. If we would say that the ages for judges and witnesses should be the same, then should we say that in accordance with the requirements for judges, one past the age of 60 cannot bear witness? Ginzberg, Sect, 396 n. 166 suggests an alternative explanation for 'asher lo' mal'u yamaw—namely that the person has not completed the trial period for membership in the sect. If so, the entire passage would mean "who has not completed his trial period by which to become a full-fledged member of the sect."

Such an explanation might be possible if this were the only text available. However, 1QSa 1:9f. (discussed presently), which was not available to Ginzberg, makes clear that the passage intends to specify an age limit.

/6/ The phrase is from Ex. 30:14 and appears as well in CDC 15:6. On the mustering procedure, see Yadin, War Scroll, 59–61 and HAQ, 66f. It was intended to facilitate preparing a roster of members and organizing the sect in military units.

/7/ Schechter supplied lo' here. It is unnecessary as the negative before mal'u extends to yare'el as well. Cf. Ginzberg, Sect, 46.

/8/ Cf. the quotation in CDC 20:19 (Ginzberg and Rabin). That "fear of God" constitutes a body of knowledge can be seen from 2 K. 17:28, 32, 34, 39, 41, as well as Ps. 19:10 (where emendation must be rejected). See also Pss. Sol. 2:37, 3:16, etc. as well as Ex. 18:21, in reference to judges (Rabin).

/9/ Segal takes this as hofal, yo'o'man. The hofal does not occur in the Bible at all. In a baraita' in B. 'Avodah Zarah 16b, ed. Vilna, a hofal is found, yet the marginal note, R. Hananel, and DS (ad loc.) suggest the possibility that this word is a corruption. Favoring this reading, however, is the rule of lectio difficilior. The parallel in T. Hullin 2:24 (ed. Zuckermandel) does not show a hofal. (On this baraita', see Z. W. Rabinowitz, Sha'are Torat Bavel [1961], 178.) The occurrence of a hofal in the poetry of Yannai (Even-Shoshan, s.v.) is probably due to innovation based on the commonly used hifil. It appears that we have little choice but to read our form as a nifal, ye'am. The nifal of 'mn followed by 'al in the sense of being "reliable concerning" is frequent in Rabbinic literature (e.g. the baraita' just cited). P. Sotah 2:5 (18b) is an explanation of the response 'amen. This passage is the only case of a non-participial nifal of 'mn which could be located in Rabbinic literature. J. Levy, Wörterbuch über die Talmudim und Midraschim (1963), labels this a biblical usage. Interesting is the reading of MS Rome, we-ye'amnu (yy'mnu) ha-devarim where ed. Venice reads ye'amnu (yy'mnu) ha-devarim (S. Lieberman, 'Al Ha-Yerushalmi [1929], 62). Perhaps all we have in the printed text is a slight misquotation of Gen. 42:20. If not, the scribe of MS Rome made his error under the influence of this verse which reads we-ye'amnu (yy'mnu) diorekhem. We must remember that while MS Rome preserves many valuable readings, it is replete with errors. Apparently, it was copied by a poor scribe from a good Vorlage. It is not surprising that our text, composed centuries before the tannaitic literature was redacted, still shows the use of nifal imperfect of this root, a form not unusual in the Bible. Indeed, Ben Sira 36:21 and 50:24 preserve such forms. The nifal of 'mn occurs with 'ed in Jer. 42:5 and Ps. 89:38. Rabin's translation, "be declared a reliable witness," presupposes the meaning of the hif'il in Rabbinic usage (so M. Jastrow, Dictionary of Talmud Bavli,
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Yerushalmi, Midrashic Literature and Targumim [1950], s.v.). But we have seen that it is unlikely that our form is a hof' al serving as a passive of this Rabbinic sense.

/10/ The preposition 'al is common after the nif'al of 'mn in tannaitic usage (e.g. the baraita discussed in the preceding note) to indicate concerning whom or what the person is reliable. For witnesses, cf. M. Sanhedrin 3:2. This usage does not occur in the Bible.

/11/ The usage 'br davar mi(n) is found in DSD 8:22, on which see below, 169f. The root 'br in the qal, followed by miṣwah (sing.) occurs only in Est. 3:3, referring to the command of an earthly king. The root occurs with the pl. miṣwot, the divine commandments, in Deut. 26:13 and 2 Chron. 24:20. In the former passage the preposition min precedes miṣwot as in our text. For davar, “anything,” followed by min, meaning “any of,” see Ex. 5:11, 9:4; Josh. 8:35, 11:15 (cf. DSD 8:17), 21:43; and Est. 6:10.

/12/ Cf. above, 44 n. 52.

/13/ Since, as Rabin notes, our clause is an elipsis of that in DSD 8:18, we ought to take the verb zkw as referring to the deeds of the transgressor. There is no way of knowing if our verb is to be derived from zkh or zkk. (But cf. A. M. Honeyman, “Isaiah 1 16 hitzakw,” VT 1 [1951], 63–65.) Only the third person, pl., perfect occurs for zkk in the Bible (Job 15:15, 25:5; Eccl. 4:7). But this need not be significant as there can be no doubt that Hebrew was a spoken language at Qumran and that the sectarians had the ability to fill out paradigms with forms not found in Scripture. From the Rabbinic dictionaries it would appear that zkk ceased to function as a verb by the tannaitic period, and zkh lost the meaning “to be pure.” It is noteworthy that in discussing M. Menahot 8:5 in which the word zakh, “pure,” appears (based on Ex. 27:20 which is quoted by the Mishnah), B. Menahot 86b found it necessary to quote a baraita which defines zakh as naqi, “pure.” (Cf. the parallel in Sifra ‘Emor, parashah 13:6.) Ginzberg (Sect, 47) suggests emendation to ‘d ḥzw ḥw lshw (‘ad hazerō vo la-shuw) which he translates, “until he gives up his sinful way of life to return to God,” or to ‘d znhw (‘ad zenaho), “until he abandons.” The need for these proposals is obviated by the explanation given above in this note.

/14/ The qal of šub means much more than “to repent” at Qumran. (This was not realized by Schechter and Segal in their editions of CDC.) It is a technical term for joining the sect or for rejoining it after a period of suspension due to transgression. For this latter sense (in negative context) see DSD 8:23 and 9:1.

/15/ Cf. Num. 1:3; 1 Chron. 27:23.

/16/ Cf. de Vaux, Ancient Israel (1965) I, 225.

/17/ Above, 30–32.

/18/ So Licht.

/19/ So Licht. See his “Ha-Munah Goral Bi-Khetaveha shel Kat Midbar Yehudah,” Bet Miqra 1 (1955/56), 90–99.

/20/ It is also possible to translate “among” or “in the midst of” (Richardson).

/21/ Licht (Serakhim, 247) attributes the mention of “families” here to the predilection of 1QSa to the restoration of biblical society in the end of days. Cf. Yadin, War Scroll, 49–53.
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/22/ Cf. DSD 5:20 in which the phrase 'adat qodesh appears in connection with lhyd. Our word is a nif'al with elided he' on which see Qimron, p. 148f.

/23/ The restoration of 'adat is definite as half of the dalet is visible (Licht). Cf. DSD 5:20; IQSa 1:20, 2:16 (as restored by Barthélemy, DJD 1); CDC 20:2, and Rabin, QS, 37-52.


/25/ Note the use of plene spelling for Masoretic qameṣ qatan in ḥaq. The phrase ḥaq (huqat) 'olam appears in Ex. 29:28; Lev. 6:11, 15, 7:34, 10:15, 24:9; Num. 18:8, 11, 19 in cultic context, often in association with ben in the pl., referring to the Sons of Aaron. Cf. also Ex. 12:24. In Jer. 5:22 the phrase means “a law of nature.” Apparently, the phrase in our passage simply means that the process is to be repeated generation after generation.

/26/ On the hif'il of qwm followed by 'al in the sense of “to take upon oneself an oath,” see below 70f. n. 80.


/28/ Num. 1:2.

/29/ T. Demai 2:14 (and Lieberman, TK, ad loc.), which mentions the full havurah, and a baraita' in B. Bekhorot 30b which mentions the three representatives. Lieberman (“Discipline,” 200 n. 15) assumes that the Babylonian recension is secondary and that the acceptance of haverut took place before the entire havurah. A. Oppenheimer (The 'Am Ha-Aretz [1977], 120 n. 7) takes the variation as the result of differing practices or date.

/30/ P. Demai 2:3 (23a); Lieberman, TK, to T. Demai 2:14.


/33/ Sect, 45f., and 326-331.


/35/ A baraita' in B. Niddah 47b. Cf. Tosafot, ad loc., and a baraita' in B. Yeavamot 80a.

/36/ Cf. M. 'Avot 5:21 (regarding males) and T. Niddah 6:2 (cf. B. Niddah 46a and S. Lieberman, Tosefet Rishonim, ad loc.).

/37/ T. Ḥagigah 1:3 and Lieberman, TK, ad loc.
/38/ P. Bikkurim 2:1 (64c); P. Sanhedrin 11:7 (30b); B. Shabbat 89b. Cf. Bereshit Rabbah 58:1 and Tosefot Yom Tov to M. Niddah 5:9.

/39/ Ginzberg, Sect, 45f. claims that “according to Talmudic law no one under twenty years of age may dispose of real estate (Bava Bathra 156a) which probably indicates that some business circles are often more conservative than judges.” Actually, the source he cites allows the sale of real estate belonging to the young man. It only prohibits selling land he acquired as an inheritance from his father. Maimonides, H. Mekhirah 29:13, correctly comments that this law is designed to protect the young man from squandering his inheritance before becoming initiated into the management of financial affairs (darkhe ha-olam). Cf. also B. Giṭṭin 65a.

/40/ Toledot Ha-Halakhah IV (1950), 372.

/41/ T. Hagigah 1:2; B. Sukkah 42b. The entire passage in B. Sukkah 42b is an amoraic recapitulation of the baraita’ with interspersed amoraic comments. Note that the interpolation traces the source of this halakhah to Ex. 12:4.

/42/ Rabin (to CDC 10:1) also cites a regulation from Fetha Naghast, an Ethiopian law code, which requires witnesses to be twenty.

/43/ Ginzberg, Sect, 46; Rabin to CDC 10:1; cf. above, 36.

/44/ See above, 23.

/45/ Sect, 46.

/46/ Harkavy, 22. The translation is that of Sect, 46. Note that Anan saw all wine as forbidden to Karaites as a result of the destruction of the Temple.

/47/ Sefer Ha-Miswot, 38, 59, 131.

/48/ So Ginzberg.

/49/ Aaron ben Elijah of Nicomedia, Gan ‘Eden, 172b; Hadassi, Ḥeshkol Ha-Kofer, 11d; Ginzberg, Sect, 149. But note that L. Nemoy, Karaite Anthology (1952), 31 states that Daniel al-Kumisi is said to have exempted men under twenty from religious ordinances.

/50/ Allegorical Interpretation I, 10, cited by Ginzberg, Sect, 149 n. 171.

/51/ On this phenomenon, see below, 136.

/52/ There is no possibility here of reference to the semi-proselytes known from other Second Temple sources.


/54/ HAQ, 47–49.


/56/ For this term, see HAQ, 22–32.

/57/ Ant. 4, 8, 15 (219).

/58/ M. Sanhedrin 3:3; M. Rosh Ha-Shanah 1:8; T. Sanhedrin 5:2, 5 of which Rabin cites only the first and last. On these traditions, see [Z. Frankel], “Beiträge zur Sacherklärung der Mischnah,” MGWJ 20 (1871), 494–501. Note that repentance allowed the testimony of these transgressors to be accepted again (T. Sanhedrin 5:2; P. Rosh Ha-Shanah 1:7 [ed. Krot. 1:9, 57bf.]; P. Sanhedrin 3:5 [21a]; P. Shevu’ot 7:4 [37d]; B. Sanhedrin 25b).
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B. Sanhedrin 26b.

Maimonides, H. 'Edut 12:1.

See below, 115f.

T. Sanhedrin 5:2.

B. Yoma 86b and in the beautiful formulation of Maimonides, H. Teshuvah 2:1.

Restored with Licht.

For the use of qrb with 'ishah in the sense of sexual relations, see Lev. 18:19. While later tradition took this as a general prohibition on contact, the original text clearly is meant to refer to sexual relations. The lamed of 'el is partly visible.

Cf. Num. 31:17 (although following B. Yevamot 60b, Rashi takes this as meaning capable of sexual relations) and Jud. 21:11. Licht remarks that the terminology has been transferred from reference to the female to the male.

Licht notes the spelling ky (as in Masoretic Hebrew) and compares DSD 5:14 (ki 'im also).

Cf. Jer. 29:10 le-fi melot. On the spelling see DSD 6:18 (mul't) and DSD 7:20 (mul't). Cf. also Licht, Serakhim, 45f.

See Gen. 2:9; Deut. 1:39; Is. 7:15–16. This expression is discussed below, 64.

DJD I, 113.

Richardson, 113.


Richardson, 119.

Baumgarten, 184. Baumgarten's statement regarding "Pharisaic law" that "even in cases where women are qualified [to testify], a person cannot testify against his relative," is somewhat difficult to understand since women's testimony is accepted in order to prove the death of her own husband and permit her remarriage, and this is the primary case in which female witnesses are accepted in Rabbinic halakhah. Cf. M. Yevamot 15:4; M. Sotah 6:2.

Cf. also 1 Cor. 14:34–35; 1 Tim 3:11–12.

Ant. 4, 8, 15 (219). Cf. Ant. 4, 8, 4, (196–198). It is possible, however, that Josephus intentionally introduced some non-Scriptural laws into his account.

Baumgarten, 185.

Serakhim, 253f.

Discussed as well in HAQ, 29.

On the hif'il of qwm followed by 'al in the sense of taking an oath, see DSD 5:8, 10; DST 14:15; CDC 16:7 and Nebe, 257–264. Ginzberg, Sect, 295 notes that this is not a biblical usage, and sees it as an Aramaism, meaning to "confirm under oath" or "swear." (When Ginzberg wrote, it was usual to consider cases of parallel usage in Aramaic and late biblical or post-biblical Hebrew to be the result of Aramaic influence. Today, scholarship is more circumspect and recognizes the frequency of common usages.) Ginzberg cites as examples M. Sanhedrin 7:6 which is a pi'el,
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however, and the fascinating case of the ancient *baraita* in B. Qiddushin 66a. This is the famous story of Alexander Jannaeus and the Pharisees. Janneus is told in Ginzberg’s translation, “Make them [the Pharisees] take a loyalty oath on the high priestly frontplate” (*haqem lahem ba-siš*). Cf. *Shir Ha-Shirim Rabbah* 7:9 on the *siš*.

/81/ A technical term for joining the sect. Cf. CDC 16:1f. Mal. 3:22 is the source of *torat mosheh*. On the sanctity of the Law of Moses, see below, 137f. Cf. 1 K 2:3 *be-torat mosheh* followed by v. 4, *be-khol levavam u-ve-khol nafsham*.

/82/ Cf. Deut. 10:12, 11:13. If the source of the phrase were Deut. 6:5, we would expect reference to the *me’od*. That the sect had *me’od* in its text can be seen from Y. Yadin, *Tefillin from Qumran* (1969), slip no. 2, l. 24 opp. Plate XV; cf. slip no. 1, l. 19f., opp. Plate XIV (for Deut. 10:12). Deut. 11:13 was originally contained in slip no. 4 (Yadin, 14). See also 2 Chron. 15:12. Note that an exegesis of Deut. 6:5 lies behind DSD 5:8f.

/83/ Restored with Rabin who considers the restoration “somewhat uncertain.” The same usage occurs in M. 'Avot 4:4. See Levy, s.d.

/84/ Only the top of the *lamed* is visible. In the Bible the verb refers primarily to marital infidelity or misappropriation of cultic property. There is in addition a third metaphorical sense of acting treacherously against God or justice. In tannaitic usage, only the sense of misappropriation of cultic or sacred property survives.

/85/ On *we-khen*, cf. Licht ad loc. and above, 11.


/87/ The pl. *mishpatot* is anomalous.

/88/ Licht compares other spellings with final *'alef* instead of *he* in 1QSa 2:22; DSD 7:4, 10:1, 3:11.

/89/ On *mishpatim* as law derived through sectarian exegesis, see *HAQ*, 42–47.

/90/ S. Hoenig, “On the Age of Mature Responsibility in 1QSa,” *JQR* 48 (1957/8), 373 translates as follows: “And thus it shall be accepted that the laws of the Torah forewarn him and that he is to stand in obedience to the laws and the fulfillment thereof,” including the first two words of the next sentence with our passage. Baumgarten, however, shows without question the many linguistic and exegetical problems posed by this translation (“1QSa 1.11—Age of Testimony or Responsibility?” *JQR* 49 [1958/9], 157–160) and the attempts by S. Zeitlin, in an editorial note, *idem*. 160f. and Hoenig, “The Age of Twenty in Rabbinic Tradition and 1QSa,” *JQR* 49 (1958/9), 209–214 do little to justify it. Hoenig, however, has assembled the most complete collection of material on the age of twenty in the Rabbinic tradition.


/93/ Licht, however, takes it to mean general maturity in our passage, despite the context, which clearly supports Gordis’s view. See also P. Borger, “At the Age of Twenty” in 1 Q Sa,” *RQ* 3 (1961–62), 267–277.

/95/ B. Niddah 38a-b (baraita').
/96/ Cf. 1 Cor. 7:1, 2, 6, 7, 9 (Gordis).
/97/ M. 'Avot 3:21. This passage is often taken as a later addition. Texts indicating earlier ages (Ginzberg, Sect, 328 n. 34) usually refer to contracting the marriage, rather than to the actual start of married life.
/98/ B. Qiddushin 29b.