

**Deut. 22:23** In the case of a virgin who is engaged to a man—if a man comes upon her in town and lies with her, <sup>24</sup> you shall take the two of them out to the gate of that town and stone them to death: the girl because she did not cry for help in the town, and the man because he violated [עָנָה] another man’s wife. Thus you will sweep away evil from your midst. <sup>25</sup> But if the man comes upon the engaged girl in the open country, and the man lies with her by force, only the man who lay with her shall die, <sup>26</sup> but you shall do nothing to the girl. The girl did not incur the death penalty, for this case is like that of a man attacking another and murdering him. <sup>27</sup> He came upon her in the open; though the engaged girl cried for help, there was no one to save her.

**Deut. 22:28** If a man comes upon a virgin who is not engaged and he seizes her and lies with her, and they are discovered, <sup>29</sup> the man who lay with her shall pay the girl’s father fifty [shekels of] silver, and she shall be his wife. Because he has violated her [עָנָה], he can never have the right to divorce her.

Bernard Levinson, “Deuteronomy,” *Jewish Study Bible*

**29: Fifty ... silver:** As in Exod. 22.15, the intercourse does not constitute adultery, because the woman is neither married nor betrothed. In contrast to Exod. 22.16, however, the payment to the father does not directly represent compensation for the loss of the bride-price, which is normally a negotiated amount (Gen. 34.12). As a fixed amount externally imposed by the law, the payment here seems closer to a fine (v. 19). Both Deut. and Exod. require the man now also legally and contractually to marry the woman by paying the bride-price to the father. In contrast to Exod. 22.16, the father’s consent is not sought, and therefore he must negotiate the bride-price with the man who had intercourse with his daughter and no other. Thus the fine paid by the man seems intended to compensate the father for diminished potential earnings had he been able to negotiate a higher bride-price with another man. Postbiblical Jewish law granted both the father and the daughter the right to refuse such marriages (Maimonides, *Mishneh Torah, Nash.*, Hilkhot Na’arah Betulah 1:3).

**Ex. 22:15** If a man seduces [הִפְסֵף] a virgin for whom the bride-price has not been paid, and lies with her, he must make her his wife by payment of a bride-price. <sup>16</sup> If her father refuses to give her to him, he must still weigh out silver in accordance with the bride-price for virgins.

Nahum Sarna, *Exodus*, JPS Torah Commentary

**15. seduces** By persuasion <sup>34</sup> or deception <sup>35</sup> but not by coercion. There is a presumption of consent on the part of the girl. For the law of rape, see Deuteronomy 22:22–29.  
<sup>34</sup> So Rashi. <sup>35</sup> So Ramban.

William Propp, *Exodus*, Anchor Bible

**22:15. seduces.** Like other ancient peoples, the Israelites probably lacked our clear distinctions between elopement, abduction and rape. Even English “rape” originally referred to “stealing” a woman from her male relatives. In Exodus 22, abduction/rape is classified as an example of theft—specifically, of borrowing property and not returning it intact. Violence need not be involved. Since the root *pty* refers to taking advantage of another’s simplicity, our law can refer to a consensual situation, presumably including a false promise of marriage.

**RASHBAM: For whom the bride-price has not been paid.** If it has, then according to Deut. 22:24 he is subject to stoning.

e-mail: [torah-talk@earthlink.net](mailto:torah-talk@earthlink.net)

web: <http://mcarasik.wordpress.com/>

iTunes: <https://podcasts.apple.com/us/podcast/torah-talk/id291683417>

contribute: <https://www.paypal.me/mcarasik> or @Michael-Carasik on Venmo

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Jeffrey Tigay, *Deuteronomy*, JPS Torah Commentary

**23-25.** It is not clear why Deuteronomy deals with the possibility of rape only in the case of engaged and unmarried girls (see v. 29). Unquestionably, evidence that a married woman was raped would clear her, too, as the halakhah rules.

**29. fifty** [*shekels of silver*] This is often taken to be identical to the “bride-price for virgins” mentioned in Exodus 22:16 that the seducer must pay to a virgin’s father, but this is questionable. It seems unlikely that a rapist’s penalty would be identical to that of a seducer, since his offense is graver. If the seducer of Exodus 22:16 is required to pay an average bride-price, the fifty shekels paid by the rapist probably represents a combination of an average bride-price plus punitive damages.

**he can never have the right to divorce her** Exodus does not impose this restriction on the seducer. The rapist’s offense is graver and he is treated more stringently.

**NAHMANIDES [to v. 24]:** **Because he violated another man’s wife.** Only rape is called “violation.” Here, though he seizes her by force, she is nonetheless considered willing because she might have saved herself from him by crying out. The man is still considered to have “violated” her because he did not attempt to seduce her—he just grabbed her.

**IBN EZRA [to v. 28]:** **If a man comes upon a virgin who is not engaged and he seizes her and lies with her.** This refers specifically to rape, not to seduction.

Mayer Gruber, “Nuances of the Verb ענה to Fructify,” *Menahem Cohen FS*, 2005

The idea, previously challenged, *inter alia*, by Weinfeld, Deem, Gruber, Frisch, and N. Hakham – that when the verb *innah* refers to sexual relations it must, perforce, refer to rape – is a totally forced interpretation. In Deut. 22:24, in fact, the verb *innah* refers to consensual sexual relations. The forced interpretation of *innah* as “rape” does not accord with Ezek. 22:7-12. The largely untapped legacy of medieval Jewish biblical lexicography can liberate biblical philology from the restrictions imposed by the reticence of 19th-century lexicographers to recognize homonyms in biblical Hebrew.

HALOT:

I ענה: to reply, answer  
II ענה to be wretched, emaciated  
III ענה to be troubled about  
IV ענה: to sing

BDB:

I. ענה vb. answer, respond  
II. [ענה] vb. be occupied, busied with  
III. [ענה] vb. be bowed down, afflicted  
IV. ענה vb. sing

DCH:

ענה I 314.8.61.2 vb. answer  
ענה II 81.4.12 vb. be afflicted \* ענה VI make into a dwelling \* ענה X 1 vb. plough  
ענה III 18.1 vb. sing \* ענה VII 3 vb. dwell \* ענה XI 1 vb. imprison  
ענה IV 2.1 vb. be occupied \* ענה VIII 3 flow \* ענה XII 7 vb. attend to  
\* ענה V 9 vb. triumph \* ענה IX 1 vb. be disquieted

\* ענה XIII 1 vb. have intercourse (unless ענה I answer or III sing or XII attend to)—Qal 1 + waw וְעָנְתָּ—have intercourse, <SUBJ> אָם *mother* Ho 2<sup>17</sup>. <PREP> כְּ as (in), + יום *day* Ho 2<sup>17</sup>. <COLL> ענה + adverb, כִּשְׁמָה *there* Ho 2<sup>17</sup>.

e-mail: [torahtalk@earthlink.net](mailto:torahtalk@earthlink.net)

web: <http://mcarasik.wordpress.com/>

iTunes: <https://podcasts.apple.com/us/podcast/torah-talk/id291683417>

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